(1)

No. 02-568

OFFICE OF THE CLERK

In The

Supreme Court of the United States

HERBERT G. JONES,

Petitioner,

v.

STATE OF TEXAS, ATTORNEY GENERAL AND STEPHANIE D. GOODSON,

Respondents.

On Petition For Writ Of Certiorari To The Court Of Appeals Of The State Of Kansas

PETITION FOR WRIT OF CERTIORARI

CHERYL J. ROBERTS,
Attorney Chartered
Counsel of Record for Petitioner
212 N. Market, Ste. 310, P.O. Box 86
Wichita, Kansas 67201-0086
(316) 263-4949
(316) 264-6171 (facsimile)

COCKLE LAW BRIEF PRINTING CO. (800) 225-6964
OR CALL COLLECT (402) 342-2831

QUESTION PRESENTED

1. Whether the Honorable Paul Buchanan, Chief Judge of Sedgwick County, Kansas, had the power to enter the order of July 13, 2001, Appendix 18, in case number 86 R 59, and whether the Kansas Court of Appeals and Kansas Supreme Court have the power to disregard authority cited by petitioner supporting his position that the Sedgwick County District Court, Family Law Department, does not have jurisdiction over his Alaska dissolution of marriage agreement, which is governed by contract law of the State of Alaska, not domestic law under the Uniform Reciprocal Enforcement of Support Act, (URESA) Appendix 27.

2. Whether this Court should exercise its jurisdiction to prevent enforcement of the order and to compel its vacation by issuance of a writ of certiorari, and/or any other appropriate writs or relief.

3. Even if reciprocal child support law does apply, should this Court grant a writ of certiorari and vacate the order(s) of the Kansas courts, because even under reciprocal child support law, they have no jurisdiction over the Alaska dissolution and under Alaska law, no interest would be owed on past due child support payments in the dissolution.

PARTIES

Petitioner

Herbert G. Jones, P.O. Box 3182, Wichita, Kansas 67201

Respondents

The Attorney General of the State of Texas who brought this action and Stephanie D. Goodson, formerly Stephanie D. Jones.

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED	i
PARTIES	ii
TABLE OF CONTENTS	iii
TABLE OF AUTHORITIES	iv
PETITION FOR WRIT OF CERTIORARI	1
OFFICIAL REPORT OF OPINION BELOW	1
JURISDICTION	2
CONSTITUTIONAL PROVISIONS AND STATUTES	3
A. CONSTITUTIONAL PROVISIONS	3
B. STATUTES	3
STATEMENT OF THE CASE	4
REASONS RELIED ON FOR ALLOWANCE OF WRIT OF CERTIORARI	7
ARGUMENT FOR GRANTING WRIT	9
CONCLUSION	19

TABLE OF AUTHORITIES

Page

CASES

CSED v. Valdez, 941 P.2d 144 (1997).....17

Costello v. Costello, 186 Conn. 773, 443 A.2d 1282 (1982).....12

In re the Matter of the Marriage of Riggle, No. 88,115, August 23, 2002.....16, 17

Keffer v. Keffer, 852 P.2d 394 (1993).....2, 10, 12

Stouffer v. Stouffer, 867 P.2d 226 (Haw. Ct. App. 1994).....12

CONSTITUTION

Fourteenth Amendment 3, 14

STATUTES

Alaska Stat. 25.24.210.....12

Alaska Stat. 25.25.250.....17

Alaska Stat. 25.27.025.....18

Alaska Stat. 25.27.226.....18

Alaska Stat. 47.23.020(a)(2)(C) 18

Alaska Stat. 47.344.020.....18

Ill. Rev. Stat. Ch. 110A, ¶ 296(K)(5).....17

K.S.A. 23-451 et seq. 9

K.S.A. 60-212(h)(3).....3, 14, 19

K.S.A. 60-252 .....3, 16

TABLE OF AUTHORITIES – Continued

Page

K.S.A. 60-260(b) 14

K.S.A. 60-260(b)(4) 3, 19

K.S.A. 60-260(b)(5) 3, 19

K.S.A. 60-260(b)(6) 3, 19

Nev. Rev. Stat. 180.290 17

Section 1257, Title 28, United States Code 2, 4

OTHER AUTHORITY

Black's Dictionary, Uniform Reciprocal Enforcement of Support Act (defined) 3, 13

Lindey on Separation Agreements and Antenuptial Contracts, Alexander Lindey and Louis I. Parley, Vol. 2, 1966 ..... 12, 13

The Law of Domestic Relations in the United States, 19.12, 459 2nd edition, 1987 11

U.S. Supreme Court Rule 13 ..... 2, 4

PETITION FOR WRIT OF CERTIORARI

Herbert G. Jones, petitioner, by Cheryl J. Roberts, Attorney Chartered, his attorney, petitions this Court to issue a Writ of Certiorari to review the opinion of the Kansas Court of Appeals issued on April 5, 2002 that affirmed the July 13, 2001 order of Sedgwick County, Kansas District Court, and that was upheld by the Kansas Supreme Court.

OFFICIAL REPORT OF OPINION BELOW

The opinion of the Honorable Paul Buchanan, Chief Judge of Sedgwick County, Kansas, Appendix 18 was upheld by the Kansas Court of Appeals via Justices Pierron, Johnson, and Buchele, Appendix 1, on April 5, 2002, Motion for Rehearing was denied, April 25, 2002, Appendix 22, and was summarily upheld by the Kansas Supreme Court in considering and denying the petition for review as a matter of right on July 11, 2002, Appendix 24, 25. Review is being sought at this time, because on September 25, 2002 the Supreme Court of Kansas considered and denied the Motion for Clarification of Ruling on Petition for Review as a Matter of Right; Motion for Written Ruling on Motion for Rehearing or Reconsideration and on Motion for Stay of Mandate; and Motion to Withdraw Mandate, Appendix 25, 48, filed July 25, 2002 in the Supreme Court of Kansas. The Motion for Stay of Mandate was overruled on July 22, 2002. Appendix 23.

JURISDICTION

Jurisdiction is conferred on this Court by the provisions of 28 U.S.C. § 1257 and Rule 13 of the Rules of the Court.

The Kansas Court of Appeals issued an opinion on April 5, 2002, Appendix 1, that affirmed the July 13, 2002 order of the Honorable Paul Buchanan, Sedgwick County, Appendix 18. The Kansas Court of Appeals denied a Petition for Rehearing on April 25, 2002, Appendix 22. A Petition for Rehearing or Modification in the Kansas Court of Appeals was denied on April 25, 2002. Appendix 22. The Kansas Supreme Court denied a Petition for Review as a Matter of Right, Appendix 55, 24. This Petition for Writ of Certiorari is filed within 90 days of the denial of the Petition for Review.

Petitioner contends that the State of Kansas does not have jurisdiction over the Alaska dissolution agreement of Herbert G. Jones and Stephanie G. Jones, under the Kansas Uniform Reciprocal Enforcement of Support Act. Appendix 27, because domestic law does not apply. Contract law applies. *Keffer v. Keffer*, 852 P.2d 394 (1993). The Law of Domestic Relations in the United States, 19.12, 459 2nd edition, 1987; and authorities cited in Kansas Supreme Court Rule 6.09 letter submitted to the Kansas Court of Appeals on January 14, 2002. Appendix 50 and Appendix 73-75 excerpt from appellant's brief in the Kansas Court of Appeals, set out the arguments submitted by petitioner in the Kansas Court of Appeals.

CONSTITUTIONAL PROVISIONS AND STATUTES

A. CONSTITUTIONAL PROVISIONS

Petitioner has been denied due process, equal protection under the law, and access to the courts guaranteed by the Fourteenth Amendment of the United States and Kansas Constitutions since the State of Kansas District Court, Kansas Court of Appeals, and Kansas Supreme Court have all failed to rule on the issue of jurisdiction over the Alaska dissolution being governed by contract law, not domestic law, even though the law cited to support this position has not been refuted by the opposition. Even if the State of Kansas had jurisdiction under the uniform child support law(s), the Alaska dissolution could not be modified, nor was there interest on past due child support payments under Alaska law at the time of the dissolution. Therefore, modifying the agreement of the parties violated due process and has denied petitioner equal protection under the law.

B. STATUTES

K.S.A. 60-212. Defenses and Objections, subsection (h)(3)

K.S.A. 60-260(b)(4), (5), and (6). Relief from Judgment or Order

K.S.A. 60-252 Findings by the Court

Uniform Reciprocal Enforcement of Support Act (defined Black's Dictionary Appendix 27 and cited in April 5, 2002 opinion of Kansas Court of Appeals, pp. 8-10)

STATEMENT OF THE CASE

This petition is filed pursuant to the authority to issue Writ of Certiorari vested in this Court by the provisions of 28 U.S.C. § 1257, and Rule 13 of the Rules of this Court, in order to prevent enforcement by the Honorable Paul Buchanan, Chief Judge of Sedgwick County Kansas District Court of his July 13, 2001 order Appendix 18, which has been affirmed by the Kansas Court of Appeals and Kansas Supreme Court without a ruling on the ultimate issue of jurisdiction over the Alaskan dissolution agreement under contract law, and not the Uniform Reciprocal Enforcement of Support Act. Said order was entered on the 13th day of July, 2001, being in the Eighteenth Judicial District, District Court, Sedgwick County, Kansas in case number 86 R 59, *State of Texas and Stephanie Goodson v. Herbert G. Jones*. Said action in the Family Law Department of the Sedgwick County District Court is pending, and petitioner requests that this Court grant a writ of certiorari and that the respondent(s), as applicable by compelled by this Court to vacate the order for the reason that respondent had not power to enter the same, as more fully alleged and argued below. A copy of the order of July 13, 2001 is included in the Appendix to this petition, together with a copy of the opinion issued by the Court of Appeals of the State of Kansas of April 5, 2002. An order denying a rehearing was entered by the Kansas Court of Appeals on April 25, 2002 without opinion, and a copy of the order is likewise attached.

1. There are also included in the Appendix the following papers which are essential to an understanding of the instant petition:

Alaska Petition and Decree of Dissolution of Marriage in Anchorage Alaska Case 3AN80-384, Herbert Gerard Jones and Stephanie Denise Jones

Alaska Child Support Order, 3AN80-384

March 6, 1986 letter from Alaska Child Support Agency to Herbert Jones

Notice of Suspension, May 10, 1982

Order to Appear served March 14, 1986 in Sedgwick County Case 86 R 59

Affidavit of Herbert Jones filed February 14, 2000

July 31, 2001 of the Honorable Paul Buchanan, 86 R 59

April 5, 2002 Unpublished Opinion of Kansas Court of Appeals, 87,509

July 11, 2002 Summary denial of Petition for Review as a Matter of Right

July 25, 2002 Motions for Clarification of Ruling on Petition for Review as a Matter of Right, Motion for Written Findings on Motion for Rehearing or Reconsideration and on Motion for Stay of Mandate, and Motion to Withdraw Mandate

Denial of Motion for Rehearing or Modification in Kansas Court of Appeals

Denial of Petition for Review as a Matter of Right in Supreme Court of Kansas

(Reiteration of Motion for Rehearing or Modification in Court of Appeals)

Motion for Stay of Mandate in Supreme Court of Kansas of Herbert G. Jones Motion for Clarification of Ruling on Petition for Review as a Matter of Right; Motion for Written Findings on Motion for Rehearing or Reconsideration and on Motion for Stay on Mandate; Motion to Withdraw Mandate and September 25, 2002 denial by the Supreme Court of Kansas

Excerpt from petitioner's brief in the Kansas Court of Appeals

Excerpt from petitioner's Petition for Review as a Matter of Right in the Kansas Supreme Court

Copy of March, 1986 order in Texas case 390, 721

Copy of March 23, 1986 Minutes Sheet, 86 R 59

2. Petitioner has exhausted his requests in the Kansas State Court system, Appendix 1-25, and is essentially in the same position he was in when he initially began the appeals process. A ruling is needed on the issue of jurisdiction being under contract law, not under the Uniform Reciprocal Enforcement of Support Act. The authorities supporting lack of jurisdiction have been cited and have not been refuted through out the Kansas State Court system, and have not been addressed, and in fact, have been ignored. Issuance of a writ of certiorari and/or the appropriate writ(s) by this Court is warranted.

REASONS RELIED ON FOR ALLOWANCE OF WRIT OF CERTIORARI

1. The issues presented makes this case, a case of first impression; therefore this Court should review this case. A decision by this Court would provide guidance to courts nation wide when faced with dealing with inter-state matters involving contracts that survive the court decree. The issues involved in the present proceedings are of exceptional character and of great public importance in that when parties enter into a contract under the law of the forum where the contract is made that survives a court order and is not merged into it, parties are bound by what they agreed to. Neither party should be allowed to receive the benefit of their agreement without having to comply with what they agreed to by misapplying law that deprives the other party of due process and the benefit of the bargain. The State of Kansas and Texas through its agents, judges, trustees, clerks, etc. do not have the authority to go outside the parameters of its powers and duties to enforce the terms of a contract on behalf of one party and not the other. The Alaskan dissolution that is the subject of this dispute is governed by contract law, whereby either party could litigate any disputes in a breach of contract action. Petitioner has been deprived of notice, opportunity to be heard, and his argument on the issue of jurisdiction has been totally disregarded by the State court. He has exhausted his remedies all the way through the Supreme Court of Kansas, and has still not been answered on the laws cited that support his position that the State of Kansas does not have jurisdiction over the Alaska dissolution under the Uniform Reciprocal Enforcement of Support Act. The laws he has cited have not been refuted by the opposition, yet this case is still pending. Petitioner is requesting the appropriate writ(s)

prohibiting the Kansas court from continuing to exercise jurisdiction it does not have.

2. The relief sought is not available, and there is no adequate remedy in the Court of Appeals or any other court other than this Court, for the following reasons:

Petitioner has been denied relief in his appeal to the Kansas Court of Appeals and in his Motion for Rehearing or Reconsideration, in which he pointed out to the Court that they had failed to rule on the contract issue, including merger, and survival of agreements. The Court still did not rule on these issues. The same issues, along with others, were raised in Petitioner's Petition for Review as a Matter of Right in the Supreme Court of Kansas, which was denied without an opinion, and without ruling on the contract issues. Copy of excerpt from Petition for Review as a Matter of Right, is included in the Appendix 55 to show the issues and arguments made and the denial, Appendix 24. Subsequent motions, including the Motion for Clarification of Ruling on Petition for Review as a Matter of Right; Motion for Written Findings on Motion for Rehearing or Reconsideration and on Motion for Stay of Mandate; and Motion to Withdraw Mandate appear in the Appendix.

An excerpt of the appellate brief is included (without appendix), to avoid duplicating items included in the Appendix herein. The Rule 6.09 letter to supplement the contract issue is also included in the Appendix 50, 63 respectively.

ARGUMENT FOR GRANTING WRIT

ISSUE NO. 1: Whether the Honorable Paul Buchanan, Chief Judge of Sedgwick County, Kansas had the power to enter the order of July 13, 2001. Appendix 18, in case number 86 R 59 under the Uniform Reciprocal Enforcement of Support Act initiated by the State of Texas and Stephanie Goodson; and whether the Kansas Court of Appeals and Kansas Supreme Court have the power to disregard authority cited by petitioner supporting his Position that the Sedgwick County District Court, Family Law Department, does not have jurisdiction over his Alaska dissolution of marriage agreement, which is governed by contract law of the State of Alaska, not domestic law under the Uniform Reciprocal Enforcement of Support Act. K.S.A. 23-451 et seq. Appendix 27.

Herbert G. Jones and Stephanie Jones, now Stephanie Goodson, respondent herein, were granted a decree of dissolution of their marriage in 3AN 80-384. Appendix 28. As a result of the dissolution, a child support order was also entered within the dissolution proceeding. Appendix 30. The State of Alaska Child Support Agency directed a letter to Herbert Gerard Jones, dated 3-6-80 explaining in detail that he was to make child support payments of $150.00 per month, through their office through out the pendency of the case, among other explanations. Appendix 34. Mr. Jones made payments as directed until he was notified by the agency that they could no longer accept payments from him because they did not know where to send payments to Stephanie Jones. Mr. Jones did not know of her whereabouts, and had not been able to see the minor child pursuant to the visitation agreement made within the dissolution contract. (See Affidavit of Jones, Appendix 42-47). The Alaska Child Support Agency

suspended collections May 10, 1982. Appendix 39. Then subsequently, Mr. Jones was ordered to appear, Appendix 40 by the Honorable James Beasley of the Sedgwick County, Kansas District Court on March 24, 1986 on the oral motion of Gary Jarchow Court Trustee under an action brought by the State of Texas and Stephanie Goodson under the Uniform Reciprocal Enforcement of Support Act. (URESA) Appendix 27. (See Jones Affidavit, Appendix 42-47 for a detailed account of what transpired at the time of the March 24, 1986 hearing and for the next fifteen (15) years until he retained counsel to close out his case, as well as the excerpt from his appellate brief Appendix 63).

Unbeknownst to Mr. Jones, an order, that never made it to the Sedgwick County microfilm records was entered without his signature, and forwarded to the State of Texas to a court where he has never been summoned and has never appeared. It appears that the order forwarded was assigned a Texas case number, and bears a Texas file stamped in the lower right-hand corner, but bears a stamped signature of the Honorable James Beasley of the Sedgwick County, Kansas court. Appendix 76.

After detailed research of the law, it was discovered that any disputes in the Alaska dissolution were to be litigated in a breach of contract action, not under a URESA action. In summary, the arguments made in the Kansas Court of Appeals are as follows:

Under Alaska law, dissolution agreements are subject to interpretation under contract principles. See *Keffer v. Keffer*, 852 P.2d 394 (1993). In *Keffer*, the Court recites Alaska Dissolution of Marriage, H.B. 873 which reads as follows:

> In providing a dissolution procedure, the legislature intended that the parties involved would be able to resolve their differences amicably and in their own way.

According to the provisions of the Alaskan dissolution, the agreements of the parties were not merged, the agreements were incorporated (see Appendix 28 Dissolution Decree). This means that the agreements could be enforced by lawsuit. (See The Law of Domestic Relations in the United States, 19.12 p. 459, 2nd edition, 1987). Since the agreements of the parties survived the decree, the Sedgwick County Court, the Attorney General of Texas, nor Stephanie Goodson can change the agreement by using URESA.

The Jones dissolution involves the incorporation of the agreements of the parties to the decree. (See Appendix 79 for agreements of parties set out in the Petition for Dissolution of Marriage). Therefore, it is necessary to examine the two principal ways in which the terms of an agreement become "incorporated" into a divorce decree. The first is by recitation, and the other is for the decree to refer to the existence of the agreement and incorporate its provisions by reference rather than by recitation. This usually means that the agreement is somehow identified in the decree (e.g., by date and by stating that a copy is in the court file and is commonly attached in its entirety to the judgment or to the court's finding or memorandum of decision . . . See Appendix 28, Decree).

Where the terms of the agreement are recited in the judgment, the interpreting court needs to look only at the judgment and apply the standard rules applied to interpretation of judgments . . . Where the agreement is incorporated by reference, the court must focus on the

agreement as a contract and interpret its terms in the same manner as any other contract would be interpreted. These differences are characterized as follows: the interpretation of a judgment is a matter of law, whereas the interpretation of an agreement is a question of fact. Lindey on Separation Agreements and Antenuptial Contracts, Alexander Lindey and Louis I. Parley, Vol. 2, 1966, pp. 31-10, 11.

In examining the relationship between the agreement and the divorce decree, it is important to bear in mind that many states explicitly require that there be an agreement before the parties can obtain a dissolution decree on no fault grounds. 10. See e.g., Alaska Stat. 25.24.210. As persuasive authority, see *Costello v. Costello*, 186 Conn. 773, 443 A.2d 1282 (1982) ("when a court has approved the provisions of a dissolution decree agreed upon by the parties, the court cannot modify or augment those provisions without following the requirements of due process"). Also see *Lindey*, supra., 31.12.

If an agreement is incorporated but is not merged into the judgment or Decree, the result is the existence of two separate instruments – a judgment or decree of divorce, and a valid and subsisting contract. Appendix 28, Decree, Appendix 30, Child Support Order, Appendix 79, Petition for Dissolution of Marriage. 2. See *Stouffer v. Stouffer*, 867 P.2d 226 (Haw. Ct. App. 1994). Also see *Lindey*, supra., p. 31-13. Alaska case law has provided that dissolution agreements are subject to interpretation under contract law. (See *Keffer*, supra.).

If an agreement is not merged, any action to enforce it must be brought as action for breach of contract. Thus the remedies that are generally available for the enforcement

of a divorce decree, such as contempt, are not available. 7. *Lindey*, supra., pp. 31-15.

When the clauses of a separation agreement are mutually dependent, a breach by one party under one clause will excuse the party's performance under the related clause . . . *Lindey*, supra., pp. 25-8. Basically, the parties to a separation agreement have available all the remedies that would be available under any other contract:

(1) remedies specifically provided for in the agreement;

(2) actions for damages for breach of contract;

(3) actions for specific performance; . . .

(4) declaratory judgment actions . . .

(5) rescission of the agreement for material and substantial breaches . . .

In certain cases the aggrieved party may be able to recover punitive damages in addition to the basic remedy . . .

Since the agreement is not a judicial order, the remedies available to enforce such orders such as contempt proceedings or wage garnishments are not available . . . Enforcement by using the Uniform Reciprocal Enforcement of Support Act is not listed as a remedy because it is not a remedy for the enforcement or breach of a contract.

The court may not use its powers to change the terms of the agreement under the guise of providing a remedy. *Lindey*, supra., pp. 25-9. The Sedgwick County, Kansas District Court provided a remedy by misapplying URESA to enforce payments under the dissolution. This has

denied petitioner his rights to due process, equal protection, and access to the courts guaranteed by the Fourteenth Amendment. Kansas, Texas, nor Stephanie Goodson have given full faith and credit to the dissolution law of the State of Alaska and the Notice of Suspension of the Alaska Child Support Department of Revenue, Appendix 39, or Alaska URESA law, even if applicable. (See Appendix 63 for other arguments raised in the appellate brief in the Kansas Court of Appeals). The law that supports jurisdiction over the Alaska jurisdiction under contract law is cited pp. 10-12, Appendix 73, 74, 50-54, excerpt from appellate brief, and Rule 6.09 letter of January 14, 2002. Collections by the State of Kansas for the State of Texas and Stephanie Goodson, and modification of the original agreement to add interest, retroactively to this secret order of March, 1986 has been done in violation of due process, equal protection, and right to access to the courts under the Fourteenth Amendment of the United States and Kansas Constitutions.

Therefore, petitioner's motion for relief from judgment, K.S.A. 60-260(b). Appendix 26, should have been granted and the case should have been dismissed pursuant to K.S.A. 60-212(h)(3). Appendix 26 for lack of jurisdiction over the subject matter. Mr. Jones has never signed a pleading, been served with the URESA pleadings, nor has he been allowed to say a word on the record in Sedgwick County case 86 R 59. Appendix 64, 65, 66, excerpt of appellate brief.

The Kansas courts have assessed Mr. Jones with an arrearage and retroactive interest under Kansas law on an Alaskan contract, governed by contract law, not URESA. In addition, neither the Kansas Court of Appeals nor the Supreme Court of Kansas have ruled on the issue of

contract law vs. URESA, although authorities have been cited. The issue has been ruled around, to arrive at the result reached in Sedgwick County District Court. (See excerpt from Petition for Review as a Matter of Right, Appendix 55; July 25, 2002 motion to Supreme Court and the Kansas Supreme Court, and denial of September 25, 2002, Appendix 48 and 25, respectively).

ISSUE NO. 2: Whether this Court should exercise its jurisdiction to prevent enforcement of the order and to compel its vacation by issuance of a writ of certiorari, and/or any other appropriate writs or relief.

This Court should grant relief by issuance of a Writ of Certiorari because the Kansas courts have not ruled on the issue of subject matter jurisdiction being under contract law and not URESA, in spite of authorities being cited supporting petitioner's position that contract law applies. The issue has been ruled around to reach the same result that the Sedgwick County District Court reached. As previously cited herein, the authorities submitted to the Kansas courts are set out in the excerpt from the appellate brief in the Kansas Court of Appeals, the Rule 6.09 letter of January 14, 2002, and the excerpts from the Petition for Review as a Matter of Right, Appendix 63, 50, and 55, respectively.

The Kansas courts have not made findings of fact and conclusions of law on the contract issue as raised by petitioner. The Kansas Court of Appeals denied rehearing, Appendix 22, and never addressed the issue in its opinion. Appendix 1. The Supreme Court of Kansas also failed to rule on the contract issue, although raised in the Petition for Review as a Matter of Right, Appendix 55, in the

appellate brief, excerpt, Appendix 63, and Rule 6.09 letter, Appendix 50.

The Kansas statute on Findings by the Court is K.S.A. 60-252 and is set out in the Appendix 26-27. Said statute provides *that* . . . the judge shall find, and either orally or in writing state the controlling facts and the judge's conclusions of law thereon . . .

To date, no findings of fact and conclusions of law have been made by any Kansas court on the issue of contract law governing the Alaska dissolution and not URESA law.

ISSUE NO. 3: Even if reciprocal child support law does apply, should this Court grant a writ of certiorari and vacate the order(s) of the Kansas courts, because even under reciprocal child support law, they have no jurisdiction over the Alaska dissolution and under Alaska law, no interest would be owed on past due child support payments in the dissolution.

In addition, this Court should issue the appropriate writ(s) because even if reciprocal child support law applied, none of the Kansas Courts have made rulings regarding the Jones dissolution that are consistent with other rulings made in Kansas. Specifically, in the recent Kansas Court of Appeals opinion, *In re the Matter of the Marriage of Riggle*, No. 88,115, August 23, 2002, the court ruled that under the Uniform Interstate Family Support act, UIFSA, which repealed URESA, a tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state. This language was cited in petitioner's appellate brief. Appendix 74. Registration of the Jones order as a foreign judgment has never occurred, and petitioner's

argument that registration was required for modification of an order under URESA was raised, Appendix 68-69, but rejected by the Kansas Appeals Court, Appendix 9.

Furthermore, under the Alaska Uniform Reciprocal Enforcement of Support Act, even if applicable, a responding state could only enforce a court order, not modify it. Alaska Stat. 25.25.250 (1990). Ill. Rev. Stat. Ch. 110A, ¶ 296(K)(5) (1989); Nev. Rev. Stat. 180.290 (1990). Appendix 67. In addition, in *CSED v. Valdez*, 941 P.2d 144 (1997) the Alaska court held that a URESA case is only an enforcement tool unless it specifically supersedes the original order. Appendix 69. Therefore, even if there was jurisdiction over the Jones dissolution under URESA, the appropriate writs should issue because even under URESA, Kansas could not modify the Alaska agreement/ order.

In the *Riggle* decision, the Kansas Court of Appeals further ruled that general and special statutes should be read together and harmonized when possible, but to the extent that a conflict exists, the special statute would prevail. Thus, the issuing state governs the nature, extend, amount, duration, current payments and other obligations of support and the payment of arrearages under the order. This same language was cited in petitioner's appellate brief, Appendix 68. It is the law of the issuing state that governs when arrearages have accrued under a support order. (Interstate Child Support Remedies, Edited by Margaret Campbell Haynes with Diane Dodson, September, 1989). This means that Alaska contract law applies, not URESA, for the reasons previously stated herein. Therefore, the appropriate writs should issue.

Even if reciprocal child support law applied, other reasons that a writ of certiorari and any other appropriate writs should issue are as follows:

The Alaska Child Support Enforcement Department of Revenue (CSED) nor the Superior Court of Alaska have ever made a finding that petitioner owes any arrears. Any arrears were not reduced to judgment as provided for in AS 25.27.226. Appendix 69.

At the time of the Jones dissolution, there was no interest on past due child support. The Jones child support order did not include a provision for interest. Appendix 70. Neither has Alaska ever given Mr. Jones notice that interest would apply to any past due child support payments as required by former AS 47.23.020(a)(2)(C), now AS 25.27.025, (effective January 1, 1983). Appendix 70. The Jones dissolution was finalized in 1980; therefore, even if this law applied, it is not possible to say that it applied to the dissolution. Appendix 70.

Nor were any alleged arrears reduced to judgment as required by AS 25.27.226. Appendix 69. (See Appendix 11 where Kansas Court of Appeals says child support payments were not final judgments until AS 47.344.020 was passed in July of 1984).

Even if URESA applied, Alaska CSED would have had to forward the case to Kansas instead of Texas because Alaska CSED had the duty of enforcing Alaska court orders within the state and in other jurisdictions. Formerly AS 47.23.020 (1985 Supp.), which was in effect at the time that the URESA was initiated by the State of Texas. Appendix 71. Also see CSED letter, Appendix 34.

The Kansas Appeals Court overruled these points in its opinion, Appendix 10-12 and relief was requested on these points in the Petition for Review, Appendix 55-62.

Finally, the 1986 order, Appendix 76, is not only void for lack of jurisdiction under K.S.A. 60-212(h)(3), it is void under K.S.A. 60-260(b)(4) for lack of due process for reasons set out in petitioner's appellate brief, Appendix 63, and specifically addressed at Appendix 68. The order is void because no hearing could have been legally conducted by Gary Jarchow since he was attorney for the plaintiffs in 86 R 59 as exhibited by the Order to Appear made on his oral motion, Appendix 40. On the minutes sheet of March 24, 1986, Appendix 85-86, he signs off to the right as Court Trustee. However, in the Journal Entry of Judgment filed in Travis County, Texas, Appendix 76-78, he signs off to the left as Court Trustee. James Beasley, District Court Judge's block stamped signature appears to the right. (Also note that the stamped signature of Judge James Beasley was stamped under the name of Gary Jarchow on the minutes sheet, Appendix 85-86).

In addition, petitioner has satisfied his obligation under the Alaska dissolution; therefore, even if applicable, any judgment should be released pursuant to K.S.A. 60-260(b)(5), or K.S.A. 60-260(b)(6). Appendix 26.

CONCLUSION

Wherefore, petitioner prays that this Court issue a Writ of Certiorari and/or such other writs appropriate in the interest of fundamental fairness to citizens who enter into contracts with the expectation that their agreements will not be modified by courts without jurisdiction, and

without due process and equal protection under the law and to provide guidance to courts nation wide in addressing in cases with issues such as these.

Petitioner further prays that this Court grant petitioner such other and further relief as it may deem to be just and equitable.

Respectfully submitted,

CHERYL J. ROBERTS
212 N. Market, Ste. 310
P.O. Box 86
Wichita, KS 67201
(316) 263-4949
(316) 264-6171 (facsimile)
Attorney for Petitioner

NOT DESIGNATED FOR PUBLICATION

No. 87,509

IN THE COURT OF APPEALS OF THE
STATE OF KANSAS

STATE OF TEXAS and
STEPHANIE GOODSON, Appellee,

V.

HERBERT G. JONES,
Appellant.

MEMORANDUM OPINION

Appeal from Sedgwick District Court; PAUL BUCHANAN, judge. Opinion filed April 5, 2002. Affirmed.

Cheryl J. Roberts, of Cheryl J. Roberts, Attorney Chartered, of Wichita, for the appellant.

Kay Gowen, senior attorney, Sedgwick County Office of the Court Trustee, for the appellee.

Before PIERRON, P.J., JOHNSON, J., and BUCHELE, S.J.

Per Curiam: Herbert G. Jones appeals the district court's decision allowing collection of child support arrearage resulting from a 1986 order of the Sedgwick County District Court. Jones argues the court did not have jurisdiction to enter the order in 1986, the order is void as a violation of his due process rights, and the court should have granted his motion to dismiss. We affirm.

Herbert and Stephanie Jones (now known as Goodson) were married in Alaska in 1976 and had one daughter – Aleasha, born September 10, 1978. Jones and Stephanie entered a decree of dissolution of marriage in 1980 in

Anchorage, Alaska. Stephanie received custody of Aleasha, and Jones was ordered to pay $150 per month in child support commencing April 11, 1980.

Sometime after the divorce, Stephanie and Aleasha moved to Austin, Texas, and Jones moved to Wichita. On May 10, 1982, the Child Support Enforcement Agency of Alaska filed a "Notice of Suspension" in the dissolution case stating:

> "THE STATE OF ALASKA, Child Support Enforcement Agency, hereby gives notice that it is suspending the administration and enforcement of the child support matter in the above-entitled action for the reasons that since there have been no payments received under this order and the payee has failed to respond to Agency correspondence; this case is being suspended for lack of sufficient information for enforcement of the Order."

This case lay dormant for several years until Stephanie filed a petition for reimbursement and support in Travis County, Texas, on February 21, 1986. Documents included with that petition were the Alaska child support order, the notice of suspension, the decree of dissolution of marriage, and Goodson's affidavit alleging $9,075 in arrearage ($10,200 [68 months x $150] minus $1,125 in payments, equaling $9,075). Kansas received the petition and it was referred to the Sedgwick County Office of the Court Trustee for enforcement. Jones was served with an order to appear in Sedgwick County District Court for a hearing on March 24, 1986, to answer to the Uniform Reciprocal Enforcement of Support (URESA) proceeding initiated in the State of Texas.

Jones appeared pro se at the hearing on March 24, 1986. Gary Jarchow appeared as hearing officer for the court and as court trustee. As a result of the hearing, the district court entered an order finding that the petition for support would be allowed and Jones should pay $150 per month in child support and $5 per month on the arrearage of $9,075. The order also stated: "[Jones] shall be given credit on his arrearage in child support for all monies paid directly to [Stephanie] for child support which he can prove." Jones claims Jarchow told him there would not be any interest charged on the arrearage balance. Jarchow testified in his deposition that he does not remember discussing the issue of judgment interest with Jones, but he stated that as a practicing attorney, he would have never told Jones that interest would not accrue on the judgment. The court's journal entry was filed on March 28, 1986.

Pursuant to the district court's order, Jones faithfully made his monthly payments of $155 until 1990. On May 2, 1990, the court trustee filed a motion to increase the child support payment on the arrearage from $5 to $50 per month. Jones appeared at the hearing again pro se, and as a result of the hearing, the court entered an order increasing the payment for the arrearage from $5 to $25. Jones again faithfully made monthly payments of $175 through mid-1995. However, the payments became irregular in late 1995.

On June 3, 1996, the district court entered an income withholding order for $175 per month issued to Jones' employer, the City of Wichita, for the monthly child support payment of $150 and $25 per month for the arrearage. The income withholding order indicated the amount of arrearage was $19,460.89. It is not clear how this figure was

arrived at. A copy of the order was mailed to Jones. Aleasha turned 18 years old in October 1996, but did not graduate from high school until May 1997, Consequently, on June 26, 1997, the court entered a modified income withholding order for $100 per month, which applied only to the arrearage since Aleasha was emancipated as of June 30, 1997. The income withholding order indicated the amount of arrearage was $5,379.39 as of June 24, 1997. This apparently corrected the erroneous $19,460.89 determination.

Income withholding continued through the early part of 2000. In February 2000, Jones, now through counsel, filed a motion for relief from the judgment entered on March 24, 1986, arguing that the judgment was entered without his approval and the court trustee was not living up to the agreement that no interest would accrue on the arrearage balance. Over the next year, Jones filed many motions involving, *inter alia*, jurisdiction and motions for disqualification and dismissal. After multiple hearings, the district court held that the March 24, 1986, order was a valid and existing court order which the court had authority to make, that it was never appealed, and that the court trustee could not as a matter of law enter an agreement to waive interest on the arrearage. The court found that Kansas had personal jurisdiction over Jones in 1986 and subject matter jurisdiction over the situation, and that Jones had been personally served with notice of the hearing on March 24, 1986. The court also found interest was properly assessed on the arrearage starting on March 24, 1986, and that Jones' responsibility for child support had continued pursuant to Kansas law until Aleasha graduated from high school.

Jones' first claim on appeal is that the district court did not have jurisdiction to enter a Kansas judgment on March 24, 1986. Whether jurisdiction exists is a question of law over which this court's scope of review is unlimited. *Cypress Media, Inc., v. City of Overland Park*, 268 Kan. 407, 414, 997 P.2d 681 (2000).

Jones initially contends that the Alaska URESA order explicitly granted Kansas jurisdiction only to enforce the Alaska support order. In support of his argument, Jones cites to Alaska Stat. 25.25.250 (1990), and several other state statutes, for the authority that many states explicitly deny the responding court jurisdiction to do anything more than enforce a support order. See Ga. Code Ann. § 19-11-42(11) (1990) (the definition of "support order"); Ill. Rev. Stat. ch. 110A 296 (1989) (Illinois Supreme Court Rule 296 concerning representation of counsel by the individual seeking enforcement of support order as not including issues of visitation, custody, or property); Nev. Rev. Stat. § 130.290 (1990).

Alaska Stat. § 25.25.250 stated: "Participation in a proceeding under this chapter does not confer upon any court jurisdiction over any of the parties to that proceeding in any other proceeding. The superior court may not adjudicate custody, visitation, or property rights in proceedings under this chapter." Alaska Stat. § 25.25.250 concerned participation by an Alaskan resident in a URESA action. Clearly, since neither Jones nor Stephanie resided in Alaska, Alaska Stat. § 25.25.250 was not applicable because Alaska was not the initiating or responding state of a URESA action. However, even if applicable, this statute was intended to limit the court's jurisdiction to support matters and not to resurrect issues of visitation, custody, or property rights. Enforcement of support, even

granting a judgment for past due support, was contemplated in both the Kansas and Alaska URESA.

The Purposes of URESA were to improve and extend by reciprocal legislation the enforcement of duties of support. The goal sought by this legislation was to provide a prompt, expeditious way of enforcing the duty to support minor children without getting the parties involved in other complex, collateral issues. In proceedings under URESA, the laws of Kansas as the responding state were to be applied. *Thompson v. Kite,* 214 Kan. 700, 703, 522 P.2d 327 (1974); *Wheeler v. Wheeler*, 196 Kan. 697, Syl. ¶ 1, 414 P.2d 1(1966).

URESA, K.S.A. 23-451 *et seq.*, was repealed by the Kansas Legislature effective July 1, 1995, L. 1994, ch. 301, § 86. In its place, the legislature adopted the Uniform Interstate Family Support Act (UIFSA), K.S.A. 23-9,101 *et seq.* To further national uniformity regarding the enforcement of child support orders, Congress required that all states adopt UIFSA by January 1, 1998. 42 U.S.C. § 666(f) (1999 Supp.). Both URESA and UIFSA were promulgated and intended to be used as procedural mechanisms for the establishment, modification, and, enforcement of child and spousal support obligations. See *Thompson*, 214 Kan. 700, Syl. ¶ 1. Under URESA, however, a state had jurisdiction to establish, vacate, or modify an obligor's support obligation even when that obligation had been created in another jurisdiction. See, *e.g.*, *Burnworth v. Hughes*, 234 Kan. 69, 670 P.2d 917 (1983); *Dipman v. Dipman*, 6 Kan. App. 2d 844, 635 P.2d 1279 (1981).

K.S.A. 23-451 *et seq.* (Ensley 1981) sets forth the procedure to be followed when the initiating state (here Texas) sought to establish a duty of support and obtain an

order of support in the court of a responding state (here Sedgwick county District court). K.S.A. 23-461 (Ensley 1981) required the petition to be verified and designated the necessary information to be included in the petition. K.S.A. 23-464 (Ensley 1981) provided:

> "If the initiating court finds that the petition sets forth facts from which it may be determined that the obligor owes a duty of support and that a court of the responding state may obtain jurisdiction of the obligor or his property it shall so certify and cause three copies of the petition and its certificate and one copy of this act to be sent to the [sic] of responding court."

K.S.A. 23-468 (Ensley 1981) and K.S.A. 23-469 (Ensley 1981) provided for prosecution by the county or district attorney and specify the duties of the prosecuting attorney. K.S.A. 23-473 (Ensley 1981) provided in part: "If the responding court finds a duty of support it may order the obligor to furnish support or reimbursement therefor and subject the property of the obligor to the order." In fact, K.S.A. 23-468 (Ensley 1981) required the diligent prosecution of a URESA petition by the responding state.

K.S.A. 23-494 (Ensley 1981) gave the court trustee the power to pursue all civil remedies which would be available to the obligee in establishing and enforcing payment of support. K.S.A. 23-496 (Ensley 1981) also gave the court trustee the power to increase or decrease child support after filing a motion and giving the obligee, obligor, and their attorneys notice of the hearing where the motion would be considered.

Jurisdiction was proper in this case. K.S.A. 23-460 (Ensley 1981) stated: "Jurisdiction of any proceeding

under this act is vested in the district court of the county in which the obligor or obligee resides." Jones does not dispute that he was a resident of Wichita, Kansas, in 1986, received notice of the proceedings against him pursuant to K.S.A. 23-468(b) (Ensley 1981), and personally appeared in Sedgwick County District Court in March 1986 when the court entered an order establishing the arrearage and ordering Jones to make the $150 payments as ordered by the Alaskan support order.

Similar to the Alaska URESA law, Kansas law applied in actions where the obligor was present in Kansas for the period during which support was sought. K.S.A. 23-457 (Ensley 1981); see *Bailey v. Haas*, 655 P.2d 764 (Alaska 1982). Under Kansas URESA law, all duties of support, including the duty to pay any arrearage, were enforceable in Kansas. K.S.A. 23-459 (Ensley 1981).

This case does not involve a modification of the original support order or the dissolution of marriage decree. Rather, the March 24, 1986, order established a judgment for past due child support and reinforced Jones' continuing obligation of child support due under the Alaska support order entered April 11, 1980. The State correctly points out that a support order entered by the Kansas courts "does not nullify . . . a support order made by a court of any other state pursuant to a substantially similar act. . . . " K.S.A. 23480 (Ensley 1981).

Kansas acted correctly pursuant to the URESA statutes in effect at the time of the March 24, 1986, hearing. The only issues decided by the Kansas court were support matters. Kansas did not modify the child support order in any way. Kansas gave full faith and credit to the Alaska support order requiring Jones to pay $150 per

month commencing on April 11, 1980. Article IV, § 1 of the United States Constitution requires: "Full faith and credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof." Our Kansas court heeded this duty by enforcing the order.

Jones argues the notice of suspension dated May 10, 1982, suspended his child support payments. Once all the parties left Alaska, the court enforcement agency properly dismissed enforcement of the case. However, leaving the jurisdiction of a state where child support has been ordered does not relieve the obligated spouse of his or her duty to pay child support. The notice of suspension in this case was not a court order relieving Jones of his duty of support. Rather, it was notice bit an administrative agency informing the individuals in a child support action that *agency enforcement* of the support order was no longer possible.

Jones also argues that Kansas was required to register the Alaskan court order as a foreign judgment pursuant to K.S.A. 23-4,125 *et seq.* (Ensley 1988). Jones is mistaken. URESA in Kansas provided for civil enforcement of URESA petitions filed by other states. See K.S.A. 23-457 through 23-482 (Ensley 1981). Independent. of the civil enforcement statutes, URESA also provided for the registration of foreign support orders. See K.S.A. 23-483 through 23-4,100. (Ensley 1988) Registering foreign support orders was clearly an additional remedy for enforcement of support orders. K.S.A. 23-483 (Ensley 1981), entitled "Additional remedies," stated: "If the duty of support is based on a foreign support order, the obligee

has the additional remedies provided in the following sections." The action sought by the Kansas court was civil enforcement of the URESA petition filed in the State of Texas, not registration of a foreign support order.

Jones also argues he was entitled to notice that interest would apply to any of his past due payments in order for the interest to be enforceable. Jones cites Alaska Stat. § 25.27.020(a)(2)(B), (formerly 47.23.020[a][2][C]), which provided that the Alaska child support enforcement agency shall promulgate regulations that establish "a uniform rate of interest on arrearage of support that shall be charged the obligor upon notice if child support payments are 10 or more days overdue. . . . "

During the time period of this case, Alaska law, provided for payment of interest on past due judgments. Alaska Stat. § 09.30.070. In *Ogard v. Ogard*, 808 P.2d 815, 817 (Alaska 1991), the court held Alaska Stat. § 47.23.025 allowed for 12% interest per year on child support payments. The *Ogard* court then arguably held, contrary to Jones' argument of notice of interest, that a defaulting obligor was entitled to notice of the payments being over due, not notice that interest would be charged. The court stated: "In context [of charging interest], this is limited to payments under a support order for which the statute requires notice that 'child support payments are 10 or more days overdue.'" AS 25.27.020(a)(2)(C)." 808 P.2d at 817.

Even under Alaska law, all of Jones' past due child support payments were reduced to judgment by the Kansas court in the order of March 24, 1986. In Alaska, the judgment would accrue interest provided the statutory due process concerns were met. Those concerns were met

in this case. Jones received notice of this hearing and he appeared.

Jones is correct that child support payments in Alaska were not considered a judgment when past due until the Alaska Legislature passed Alaska Stat. § 47.23.020 in July 1984. It is unclear from the record when Jones actually came to Kansas. However, Jones was in Kansas at least by 1982 when the Alaska child support agency suspended enforcement because neither he nor Stephanie resided in Alaska. The Alaska and Kansas URESA statutes both provided that duties of support are imposed under the laws of any state where the obligor was present for the period during which support is sought. K.S.A. 23-457 (Ensley 1981); Alaska Stat. § 25.25.060 (1987). Therefore, when Jones came to Kansas, he was subject to the Kansas child support statutes, including Kansas' long held position that child support payment installments when due and unpaid become final judgments and may be collected as other judgments. See *Dallas v. Dallas*, 236 Kan. 92, 95, 689 P.2d 1184 (1984) (underpayments in child support are credited against current support and deficiencies constitute separate judgments and separately collect interest at the statutory rate); *Trunkey v. Johnson*, 154 Kan. 725, 121 P.2d 247 (1942); *Sharp v. Sharp*, 154 Kan. 175, 117 P.2d 561 (1941).

We also agree with the district court that the court trustee could not, as a matter of law, agree to waive interest on the child support arrearage without the agreement of Stephanie. All judgments in Kansas accrue interest. See K.S.A. 2001 Supp. 16-204. The court trustee does not have the power to usurp Kansas law, absent agreement or waiver by all parties involved.

Jones argues it was necessary for the Alaska court to finalize the arrearage and reduce the amount to judgment before any collection could occur. Jones cites Alaska Stat. § 25.27.226, actually § 47.23.266 (1987), concerning the general child support statutes in Alaska entitled "Collection of Support." Alaska Stat. § 47.23.266 is completely independent of the Alaska URESA statutes. Neither the Kansas URESA nor the Alaska URESA prevented Kansas from computing the amount Jones was in arrears on his child support payments, entering judgment for the amount, and seeking enforcement of the judgment.

As pointed out by the State, citing the letter from the office of the Alaska Attorney General, it was not necessary for there to be a final order or judgment on the arrearage in order for collection to take place. Several cases hold that it is unnecessary for a party or the Alaskan Child Support Enforcement Agency to reduce or consolidate all child support arrearage into one judgment. See Alaska Stat. § 25.27.255; see, *e.g.*, *State, Dept. Of Revenue v. Gerke*, 942 P.2d 423, 426 (Alaska 1997).

We hold the Sedgwick County District Court had proper jurisdiction in this case and entered a valid and enforceable order on March 24, 1986.

Next, Jones argues that even if Kansas could legally modify the Alaska dissolution order, it did so without due process according to its own case law. Jones contends the district court abused its discretion in not granting his motion for relief from judgment.

A ruling on a motion for relief from a final judgment filed pursuant to K.S.A. 60-260(b) rests within the sound discretion of the trial court and will not be reversed absent a showing of abuse of discretion. The burden of showing

abuse of discretion lies with the party alleging abuse. See *In re Marriage of Beardslee*, 22 Kan. App. 2d 787, 790, 922 P.2d 1128, *rev. denied* 260 Kan. 993 (1996).

Jones relies on *Keller v. Guernsey*, 227 Kan. 480, 608 P.2d 896 (1980). In *Keller*, the court affirmed a trial court's ruling that under the laws of New York no valid support judgment was in effect which could be enforced in Kansas. 227 Kan. at 483-84. There, after the parties separated, the wife sought and received support from the husband for the two children of the marriage. The husband eventually moved to Kansas and the mother was granted a divorce in New York. The wife commenced a URESA action in New York and it was filed in Kansas, but the action was dismissed in both states because the mother moved to North Carolina. Later, the wife filed an action in Kansas to enforce the *common-law duty* of parental support of the minor child based on the support order granted during the separation.

Keller is clearly distinguishable. *Keller* did not involve a URESA action. Rather, it involved an action brought pursuant the common-law duty of support. Second, at the time of *Keller*, New York statutes did not provide that child support payments were automatically rendered judgments when past due. In the case at bar, at the time judgment was entered in this case in March 1986, Alaska law provided that all child support payments were automatically rendered judgments when past due. See Alaska Stat. § 47.23.020. Although all of Jones' child support payments up until July 1984 were not considered judgments when past due, they constituted one large past due judgment when the Alaska Legislature added Alaska Stat. § 47.23.020 in 1984.

Next, Jones argues pursuant to Alaska Rule of Civil Procedure 69(d) that any judgments not executed upon within 5 years require notice, an opportunity to be heard, and permission of the court where rendered. Under Jones' own argument, his child support payments were not judgments until the legislature passed Alaska Stat. § 47.23.020 in 1984. Therefore, the 1986 action in Kansas was clearly timely, and the judgments were not dormant under Alaska law.

The child support payments were not dormant under Kansas law either. Generally, unless certain action is taken, a judgment becomes dormant after 5 years. See K.S.A. 2001 Supp. 60-2403; *Gardner v. Gardner*, 22 Kan. App. 2d 314, 315, 916 P.2d 43, *rev. denied* 260 Kan. 992 (1996). A dormant judgment cannot be revived if it remains dormant for a specified period of time. The general rule is that a judgment that remains dormant for 2 years is extinguished. K.S.A. 200160-2403(a)(1); K.S.A. 60-2404. Thus, "a plaintiff may neglect his judgment for seven years, lacking a day, and then revive and put it in force for five years more." *Riney v. Riney*, 205 Kan. 671, 680, 473 P.2d 77 (1970).

In 1988, the legislature amended K.S.A. 60-2403 and removed child support judgments from the general rule. See L 1988, ch. 218, § 2. Since 1988, child support judgments do not become extinguished unless they have "remained dormant for the period prior to the child's emancipation plus two years." See 2001 Supp. K.S.A. 60-2403(b)(1); *In re Marriage of Williams*, 21 Kan. App. 2d 453, 454, 900 P2d 860 (1995). Alaska has similar statutes tolling the statute of limitations on enforcement of child support payments until the minor is emancipated. See *Grober v. State CSED*, 956 P.2d 1230 (Alaska 1998).

Jones raises several claims concerning criminal penalties under Alaska law for deprivation of his visitation rights. URESA actions in Alaska or Kansas are not the proper forum to address Jones' claims of visitation violations. See K.S.A. 23-451 (Ensley 1981) ("The purposes of this act are to improve and extend by reciprocal legislation the enforcement of duties of support."); *Thompson y. Kite*, 214 Kan. 700, Syl. ¶ 1, 522 P.2d 327 (1974) (The goal sought by URESA was to provide a prompt, expeditious way of enforcing the duty to support minor children without getting the parties involved in other complex, collateral issues). Further, K.S.A. 23-472 (Ensley 1981) specifically provided: "The determination or enforcement of a duty of support owed to one obligee is unaffected by any interference by another obligee with rights of custody or visitation granted by a court."

Jones also takes issue with the fact that neither he nor Stephanie were represented by counsel at the dissolution proceedings, but Stephanie has been represented by the Attorney General of Texas and the Court Trustee of Sedgwick County since 1986. He states that he has been without representation for almost this entire case, that he thought the matter was settled in the dissolution contract which did not provide for interest, and that the court trustee breached his word that the child support arrearage would not incur any interest.

Jones appeared pro se at the hearing on March 24, 1986, and the two subsequent hearings where his arrearage payments were modified. Jones was not prohibited from appearing by counsel, and even though he appeared pro se he was still held to the same standard as if he appeared with counsel. "A pro se litigant is held to the same standard as other parties and is required to follow the

same rules of procedure as a party represented by counsel. [Citation omitted.]" *In re Marriage of Vargas*, 20 Kan. App. 2d 480, 487, 891 P.2d 462 (1994) *rev. denied* 257 Kan. 1092 (1995).

Jones' claims of due process violations are also unfounded. "At a minimum, the Due Process Clause of the United States Constitution requires that deprivation of life, liberty, or property by adjudication be preceded by notice and opportunity for hearing appropriate to the nature of the case." *Board of Reno County Comm'rs v. Akins*, 271 Kan. 192, Syl. ¶ 2, 21 P.3d 535 (2001). Jones received notice of the hearing where consideration of the enforcement of the child support orders would take place. Jones appeared at this hearing. Jones had a right to appeal the March 24, 1986, order. See Kansas Supreme Court Rule 172(h) (2001 Kan. Ct. R. Annot. 208) (Decisions of district magistrate judges or court trustees appointed pursuant to this rule shall be subject to review by a district judge on the motion of any party filed within 10 days after the order was entered.) Further, Jones accepted the validity of the journal entry of judgment by faithfully making the court-ordered payments for nearly 10 years. There were no due process violations.

Jones also contends that since the dissolution agreement did not contain a provision allowing interest, and the agreement is the entire agreement of the parties, it is now a violation of the contract for Kansas to collect interest. Jones contends it is improper to read an interest provision into the dissolution agreement. On the contrary, it is incorrect to argue that since the parties did not include a provision in the contract to allow interest on the child support obligation or past due judgments, therefore, that the parties agreed that interest would not apply. Jones

argument is clearly contrary to Alaska law. Again, during the time period of this case, Alaska law provided for payment of interest on past due judgments. Alaska Stat. § 09.30.070.

Jones makes a few references in his appellate brief to the order of March 24, 1986, being an interlocutory order. This order was not interlocutory. It was filed by the court on March 28, 1986. It was a final order setting forth the amount of monthly child support and stating the amount which Jones was in arrearage. The ability of Jones to come back later and demonstrate payments made directly to his ex-wife for child support does not make the order temporary or interlocutory. Jones cites no authority that it was a requirement he sign the court's journal entry dated March 24, 1986, and we are aware of no authority providing for it. The March 24, 1986, journal entry was an order of the court and enforceable whether or not a party to the action signed it.

Finally, contrary to Jones' contentions, Kansas law applied to the duration of the $150 monthly obligation and the district court correctly held child support would continue until Aleasha graduated from high school in the summer of 1997, the year after her 18th birthday. See K.S.A. 2001 Supp. 60-1610(a)(1)(C); *In re Marriage of Kasper*, 29 Kan. App. 2d ___, ___, 27 P.3d 948 (2001).

We do not find the district court abused its discretion in denying Jones' motion for relief from judgment.

Affirmed.

IN THE EIGHTHEENTH [sic] JUDICIAL DISTRICT DISTRICT COURT, SEDGWICK COUNTY, KANSAS FAMILY LAW DEPARTMENT

State of Texas and Stephanie Goodson	)	
vs.	)	Case No. 86R59
Herbert G. Jones	)	

ORDER

(Filed July 13, 2001)

NOW on the 23rd day of August, 2000, comes on for hearing on this matter filed under the Uniform Reciprocal Enforcement of Support Act. Petitioners appear by their attorney, Jennifer Olsen, Deputy Court Trustee, pursuant to the Kansas Revised Uniform Reciprocal Enforcement of Support Act. The Respondent appears by and through his attorney, Cheryl J. Roberts, Attorney Chartered.

1. Judge Buchanan advises that he will be hearing the case after order of the Supreme Court pursuant to K.S.A. 1999 Supplement 20-329.

2. The Court then requested that counsel recite the issues pending in the matter herein; then, recessed with the instructions that counsel proceed with settlement negotiation, and return with a list of issues to submit to the Court. Thereafter, the case reconvenes on August 28, 2000. The Petitioners appear by their attorney, Jennifer Olsen, Deputy Court Trustee. Respondent by and through his counsel, Cheryl J. Roberts, Attorney. Respondent arrives during the cause of proceedings.

3. At said time, the Court again hears oral arguments of counsel, after counsel for the parties submit their respective briefed issues and makes arguments thereon.

Thereafter, on the 5th day of September, 2000, this matter comes before the Court for hearing. Petitioners appear by their attorney, Jennifer Olsen, Deputy Court Trustee. Respondent appears in person and by and through his attorney, Cheryl J. Roberts, Attorney Chartered at which time the Respondent's Motion for adjudication of jurisdiction, and motion to dismiss with supporting brief is heard by the Court. After hearing oral arguments of counsel, the Court overrules said motions and upon consideration of all facts set out in the file, in the brief and in the argument of counsel as true. The Court finds:

1. That the order of March 28, 1986, is a valid and existing court order which the court had authority to make. Such order was never appealed and has within the jurisdiction of the court to make even if erroneous. Respondent could at all times obtain a copy of the order even if an action in mandamus were necessary. All Kansas judgements have interest and the Court Trustee, as a matter of law, could not make an agreement to waive interest. A Court Trustee, by virtue of his office has no authority to waive interest. There is no claim that the Court Trustee has authority from either the State of Texas, the State of Alaska, or Stephanie Goodman to waive interest.

2. A valid Kansas order exists from 1986 ordering the Respondent to pay current child support of $150.00 per month and granting judgment against Respondent for back child support in the amount of $9075.

3. Kansas had personal jurisdiction over the Respondent to enter the 1986 Order since Respondent was residing in Kansas. Additionally, Respondent was properly personally served with an order to appear on the matter of child support and a hearing was set on the matter.

4. K.S.A. 23-451 et Seq., also know [sic] as the Revised Uniform Reciprocal Enforcement of Support Act (RURESA), gave Kansas not only the right but the responsibility as a responding state to enter and [sic] Order of support against the Respondent. Thus Kansas had subject matter jurisdiction over this matter.

5. Kansas has continuing and exclusive jurisdiction in the matter of child support in this case for the following reasons: 1. Although the original divorce Order was entered in Alaska, none of the parties reside there; 2. Kansas has a valid Kansas Order determining child support; and 3. Respondent continues to reside in Kansas. Thus, any adjudication of back child [sic] shall be determined by the Kansas Courts using Kansas statutes.

6. Respondent's motion to see Court Trustee's file is overruled. There was no request for an *in camera* review of the file.

7. Respondent's motion to set aside the Journal Entry of 1986 is denied. Respondent should have appealed that Order in a timely fashion.

8. Regarding Respondent's motion to settle the Journal Entry of 1986, Respondent shall be given credit as child support for $1855.00 worth of direct payments not made through the Clerk of the District Court.

9. Respondent's motion to dismiss Texas as a party is denied.

10. Respondent's motion for reconsideration of the ruling on September 5th, 2000 and to dismiss the case is denied.

11. Petitioners motion to determine arrears is granted. Pursuant to K.S.A. 16-204(e)(3) et. Seq., interest will be collected on the Journal Entry dated March 24, 1986 at 10% per annum. Additionally, Kansas Statutes regarding emancipation will apply (K.S.A. 60-1610 (a)(1)(c) The minor child in this case turned 18 in October 1996 but did not graduate high school until May 1997. Thus, current child support in this case stopped on June 30, 1997.

12. THE COURT FURTHER FINDS AND ORDERS that there is a child support arrearage due and owing in the amount of $10,009.55, as of October 13, 2000. Judgment is granted in favor of Petitioner in the amount of said arrearage.

The Court finds that respondent has made payments in accordance with the order of this court since the date of the order he now questions and that he was back to court upon attempts to obtain payments on arrearages.

The Court finds that all judgements for money in Kansas accrue interest pursuant to statute and that the Court Trustee had no legal authority to say no interest would accrue.

IT IS SO ORDERED

/s/ Paul Buchanan
Paul Buchanan
Chief Judge

IN THE COURT OF APPEALS

OF THE STATE OF KANSAS

CHERYL J ROBERTS
212 N MARKET STE 310
PO BOX 86
WICHITA KS 67201-0086

CASE NO. 01-87509-A

STATE OF TEXAS AND
STEPHANIE GOODSON, APPELLEES,

V

HERBERT G. JONES, APPELLANT.

YOU ARE HEREBY NOTIFIED OF THE FOLLOWING ACTION TAKEN BY THE COURT:

MOTION FOR REHEARING OR MODIFICATION BY HERBERT G. JONES.

CONSIDERED BY THE COURT AND DENIED.

DATE: 04/25/2002.

CAROL G. GREEN
CLERK

IN THE COURT OF APPEALS

OF THE STATE OF KANSAS

CHERYL J ROBERTS
212 N MARKET STE 310
PO BOX 86
WICHITA KS 67201-0086

CASE NO. 01-87509-A

STATE OF TEXAS AND
STEPHANIE GOODSON, APPELLEES,

V

HERBERT G. JONES, APPELLANT.

YOU ARE HEREBY NOTIFIED OF THE FOLLOWING ACTION TAKEN BY THE COURT:

MOTION FOR STAY OF MANDATE BY APPELLANT, HERBERT JONES.

MOTION DENIED. MANDATE WAS ISSUED JULY 11, 2002.

DATE: 07/22/2002.

CAROL G. GREEN
CLERK

IN THE SUPREME COURT

OF THE STATE OF KANSAS

CHERYL J ROBERTS
212 N MARKET STE 310
PO BOX 86
WICHITA KS 67201-0086

CASE NO. 01-87509-A

STATE OF TEXAS AND
STEPHANIE GOODSON, APPELLEES,

V

HERBERT G. JONES, APPELLANT.

YOU ARE HEREBY NOTIFIED OF THE FOLLOWING ACTION TAKEN BY THE COURT:

PETITION FOR REVIEW BY HERBERT JONES.

CONSIDERED BY THE COURT AND DENIED.

DATE: 07/11/2002.

CAROL G. GREEN
CLERK

SUPREME COURT ORDER DISTRICT CASE NO. 86R59

IN THE SUPREME COURT

OF THE STATE OF KANSAS

CHERYL J ROBERTS
212 N MARKET STE 310
PO BOX 86
WICHITA KS 67201-0086

CASE NO. 01-87509-AS

STATE OF TEXAS AND
STEPHANIE GOODSON, APPELLEES,
V
HERBERT G. JONES, APPELLANT.

YOU ARE HEREBY NOTIFIED OF THE FOLLOWING ACTION TAKEN BY THE COURT:

MOTION FOR CLARIFICATION OF RULING, MOTION FOR WRITTEN FINDINGS ON MOTION FOR REHEARING OR RECONSIDERATION AND ON MOTION FOR STAY OF MANDATE. MOTION TO WITHDRAW MANDATE.
CONSIDERED BY THE COURT AND DENIED.

DATE: 09/25/2002.

CAROL G. GREEN
CLERK

K.S.A. 60-212(h)(3). Defenses and Objections.

Whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action.

K.S.A. 60-260(b). Relief from Judgment or Order. Mistakes, Inadvertence, Excusable Neglect, Newly Discovered Evidence, Fraud, etc

On motion and upon such terms as are just, the court may relieve a party or said party's legal representative from a final judgment, order, or proceeding for the following reasons:

. . . . (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or (6) any other reason justifying relief from the operation of the judgment . . .

K.S.A. 60-252. Findings by the Court

(a) Effect. In all actions tried upon the facts without a jury or with an advisory jury or upon entering summary judgment or involuntary dismissal, the judge shall find, and either orally or in writing state, the controlling facts and the judge's conclusions of law thereon. Judgment shall be entered pursuant to K.S.A. 60-258 and amendments thereto. In granting or refusing interlocutory injunctions, except in divorce cases, the judge shall set forth the findings necessary. Findings of fact shall not be set aside

unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses. The findings of a master, to the extent that the judge adopts them, shall be considered as the findings of the court. If an opinion or memorandum of a decision is filed, it will be sufficient if the findings of fact and conclusions of law appear therein.

Reciprocal Enforcement of Support Act. Uniform law, adopted in most all states, by which a court in the jurisdiction of a wife or mother can commence proceedings for support against the husband or the father residing in another state. The court in the jurisdiction where he lives issues process for his appearance and an order of support is made. This is transmitted to the court of the initiating state.

Black's Law Dictionary, 6th edition, p. 1269

(See Kansas Court of Appeals opinion of April 5, 2002, pages 8-10, in Appendix 1 for citations of Kansas version of 1981)

IN THE SUPERIOR COURT
FOR THE STATE OF ALASKA

AT ANCHORAGE

In the Matter of the Dissolution of the Marriage of HERBERT GERARD JONES and STEPHANIE DENISE JONES, Husband and Wife.	No. 3AN 80-384 Civ. DECREE OF DISSOLUTION OF MARRIAGE HUSBAND AND WIFE (Filed Feb. 27, 1980)

Upon consideration of the petition filed in this Action and the testimony of the petitioner or petitioners at the hearing on February 21, 1980, the court makes the following FINDINGS OF FACT AND CONCLUSIONS OF LAW:

1. The Court has jurisdiction of the subject matter of this action;

2. Petitioners understand fully the nature and consequences of this action;

3. The agreements between petitioners concerning child custody, child support, visitation, spousal support and tax consequences, if any, division of property, and allocation of obligations are not grossly unfair, unjust, or inequitable and are in the best interests of the children of the marriage, if any;

4. The agreements of petitioners as outlined in the petition and any amendments thereto are incorporated as a part of these findings;

5. An incompatibility of temperament has caused the irremediable breakdown of the marriage.

THEREFORE IT IS ORDERED:

1. A final judgment of Dissolution of Marriage is hereby entered;

2. Petitioners shall perform their agreements as incorporated in the findings;

3. Petitioner n/a prior name is restored to n/a.

4. Other relief: Custody of Aleasha to Stephanie Jones with Herbert Jones to pay $150.00 per month in child support. Mr. Jones receives Mazda and Mrs. Jones receives Subaru, and Mrs. Jones to pay any interest on Wards' debt.

2-27-1980
Date

/s/ Victor Carlson
Judge

IN THE SUPERIOR COURT
FOR THE STATE OF ALASKA

AT ANCHORAGE

HERBERT GERARD JONES (Plaintiff) (Petitioner)	CASE NO. 3AN 80-384 Civ.
STEPHANIE DENISE JONES, (Defendant) (Petitioner)	CHILD SUPPORT ORDER (Filed Feb. 27, 1980)

THIS MATTER coming on pursuant to the provisions of AS 47.23.080, for an order to require child support payments to be made to the Child Support Enforcement Agency, Department of Revenue.

IT IS HEREBY ORDERED THAT:

1. The Obligor HERBERT GERARD JONES shall pay child support in the amount of $150.00 per child per month for a total of $150.00 per month for the support of the below named minor child(ren), commencing April 11, 1980, and to continue in like amounts on or before the * day of each and every months thereafter by cash, certified or cashiers check, or money order made payable to the CHILD SUPPORT ENFORCEMENT AGENCY, 201 East 9th Avenue, Suite 202, Anchorage, Alaska 99501.

   Payments shall include the case number and names of both parties, and shall continue to be made, except as otherwise ordered by the court, until each child has reached the age of majority, or unless the child (or children) has become self-supporting, married, in service to the armed forces, deceased, or has had his (or their) residence transferred to that of the obligor.

2. The Child Support Enforcement Agency shall forthwith disburse said payments as required by law.

3. Both Parties shall notify the Child Support Enforcement Agency, in writing, of any change in their mailing or residence address.

4. The minor child(ren) for whom payment of support is ordered is/are:

	Birthdate:
Aleasha Denise Jones	October 10, 1978
* Alternate Fridays every month.	

5. The names and addresses of the parents and/or parties to this action:

Mother:

STEPHANIE DENISE JONES
7351 East 31st Apt. A
Anchorage, Alaska 99504

Father:

HERBERT GERARD JONES
1001 Medfra
Anchorage, Alaska 99501

Custodian (if not a parent):

n/a

6. The name and address of the employer of the obligor is:

Unknown

7. The obligor is hereby notified that:

(a) Child support payments must be made to the Child Support Enforcement Agency as ordered herein and credit will not be given for payments

made directly to the custodian or the child(ren) unless specifically credited by the Court.

(b) Payment of child support must be made as ordered herein, and the giving of gifts, clothing, or other in kind payments will not fulfill the obligation.

(c) The child support obligation ordered herein will be credited by the agency for any period of time in which the residence of a child changes to that of the Obligor for more than thirty days, provided the Obligor notifies the agency in writing within twenty days from the date of said change, and provided further that said child(ren) is not a recipient of assistance granted under AS 47.23.310 – AS 47.25.420.

(d) Payment of support must be made as it becomes due, and failure to secure or denial of rights of visitation is not an excuse for nonpayment, but the aggrieved party must seek relief from the Court as otherwise provided by law.

(e) The payment of support takes priority over payment of debts and other obligations.

(f) A party who marries or otherwise accepts additional obligations of support does so with the full knowledge of his prior obligations under this proceeding, and will be given no consideration for those additional obligations in subsequent proceedings for alleged failure to make the payments as ordered herein.

(g) Child support is based on annual income, and it is the responsibility of a person with seasonal employment to budget his income so that payments are made regularly throughout the year as ordered.

8. The Clerk of Superior Court shall, by certified mail or other process, serve a copy of this order upon the plaintiff and defendant at their address of record.

9. The Child Support Enforcement Agency shall maintain a record of support payments. Upon failure to make payments, the Child Support Enforcement Agency shall take whatever enforcement action deemed legally proper, including recommending contempt proceedings, against the party ordered to pay child support (FAILURE TO PAY SUPPORT AS ORDERED MAY RESULT IN EXECUTION AGAINST THE PROPERTY OF OR THE ARREST OF THE OFFENDING PARTY.)

2-27-80 /s/ Victor Carlson
DATE Judge

Recommended for Approval,

/s/ Brown
Master

2/28/80
Date

APPLICATION FOR SERVICES

I hereby certify that I am the custodian of the above named child(ren), and I hereby make Application for administrative and enforcement services of the Child Support Enforcement Agency.

2/21/80 /s/ Stephanie Denise Jones
Date CUSTODIAN – OBLIGEE

State of Alaska

Department of Revenue
Child Support
Enforcement Agency
201 E. 9th Ave. Suite 202
Anchorage, AK 99501

276-3441
Toll-Free #Zenith 3300
(through operator)

TO: Herbert Gerard Jones
1001 Medfra
Anchorage AK 99501

DATE: 3-6-80
CASE #3AN-80-384
CASE NAME Jones
VS. Jones
SUBJECT: LETTER
OF INTRODUCTION

Dear Obligor:

The Superior Court for the State of Alaska has forwarded a copy of your Child Support Order to this agency. We advise you to read your copy carefully as you are required by Law to comply with all of its provisions. If you have not received a copy we will send one on request. Alaska Law provides that it is the duty of this Agency to administer and enforce court ordered child support and the Court Order requires that payments for support be made through this agency. All child support payment and enforcement matters will be carried out through this agency. We have the duty to keep accurate records of all payments and credits and to promptly forward all support payments to the children unless they are receiving public assistance. Please be aware that this agency is only able to deal with child support. We have no authority and no ability to handle difficulties with other aspects of the divorce such as property settlements or alimony. We do not settle disputes about visitation, nor is a dispute about visitation considered a valid reason, by this agency or by the courts, for not paying the court ordered support. We

encourage you to cooperate with the custodial parent in arranging visiting times, and see your attorney about visitation problems.

Your court order has established a monthly payment of $\underline{150.00}$ per child for a total amount of $\underline{150.00}$ to be paid to this agency not later than [75.00 on each alternate Friday] the $\underline{*}$ of each month beginning $\underline{\text{April 11, 1980}}$ and you are this date $\underline{-o-}$ delinquent in your payments unless a payment has been mailed to us very recently, a payment made directly to the custodial parent has not been reported to us, or we received a payment before the court order was received and have not yet identified it with this case.

Please be aware that this agency must represent the obligee and the children, and that we cannot give you legal advice. If you wish to change any of the provisions of the court order you must consult a lawyer. This agency is legally granted certain powers in the collection of child support including the ability to seek Liens, Judgments, Wage Assignments and other relief for non-payment. For this reason it is very important that you notify us immediately of any change in your mailing address, residence address, place of employment, and of any payments which have already been paid directly to the obligee. Credit can be given for changes of residence by the children only if we are notified. Such credit is computed in monthly or two week increments according to the Order. Your cooperation in keeping us informed with current facts may prevent action being taken against you which would not have been started if all information had been available during the review of the case. We have available an Obligor's Affidavit which, when completed by you, puts important financial information about your situation in our file. This

information would thereafter be reviewed by any Enforcement Officer working on that case. If you would like the opportunity to have such an Affidavit in the file, please pick one up or write to us and we will send one to you. We also have available excerpts from Alaska Laws covering child support matters.

If for some reason you are unable to meet your monthly obligation, please contact the Delinquent Accounts Section before the payment is due and discuss the matter with an Enforcement Officer. Child Support is a special debt under Alaska Law and must be paid before any other debts except for basic living expenses. If you have other debts which are interfering with your ability to pay the support, an appointment with an Enforcement Officer for a review of your financial situation may be of some help to you. It is usually possible to combine, refinance or reduce some other debt so that the child support may be paid in full. If you wish to discuss such matters, an appointment may be made by calling the phone numbers on our letterhead.

Your payments can be made by mail or in person to the:

Child Support Enforcement Agency
201 East Ninth Avenue #202 Mail Stop 18
Anchorage, Alaska 99501

Payments by *mail* may be made by money order, bank draft, cashiers check or by personal check drawn upon any Alaska Bank, made payable to the Child Support Enforcement Agency. If the check is made out incorrectly to the custodial parent or to an Agency in another state, we must return it to you and such a delay will result in your being considered delinquent in payments. *DO NOT* send cash through the mail. All payments made by mail must bear the case number above, your name and the name of

the custodial parent. It is important that your payments be made on or before the due date each month. Please allow time for delivery when mailing checks, and make sure that allotments or automatic payments by your bank arrive before or on the due date. Failure to properly coordinate the arrival of your payment may lead to a constant state of delinquency and confusion. The date of payment was established by a Court and can only be changed by a Court. If the due date is at an inconvenient time of the month, it must be changed by the court. If you have such a problem we suggest that you make the payment in advance. A computer Notice of Payment Status will be sent to you monthly detailing the current status of the case (the amount of the next payment, the date the next payment is due to be paid, the arrearage if any) as it shows on our records. We would appreciate a letter from you about any errors of accounting that you can determine from the information on this form. You are encouraged to return the yellow copy of your Notice of Payments Status with any payments made by mail to ensure proper and timely credit to your account.

If you have any questions about this letter or about the enforcement of your case, please contact us, having available at the time of your visit or call this case number and a concise statement of the problem or question. Please check to be sure that letters have your name and address, the case number and the name of the custodial parent. Be aware that we receive many calls a day and that our ability to quickly identify your case and decide what action must be taken will enable us to use more time in actually correcting the problem and helping you and our other clients as well as reducing the time you will have to spend waiting on hold while we look the information up.

Your cooperation is greatly appreciated. We hope that we can be of real service to you, and suggest that you keep this letter with your other important papers so that you can refer to it when there is a question about your case. Thank you.

CHILD SUPPORT ENFORCEMENT AGENCY

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

HERBERT GERARD JONES
Plaintiff,
vs.
STEPHANIE DENISE JONES
Defendant.

No. 3 AN 80-384

NOTICE OF SUSPENSION

[Filed May 11, 1982]

THE STATE OF ALASKA, Child Support Enforcement Agency, hereby gives notice that it is suspending the administration and enforcement of the child support matter in the above-entitled action for the reasons that since there have been no payments received under this order and the payee has failed to respond to Agency correspondence; this case is being suspended for lack of sufficient information for enforcement of the Order.

This suspension is effective this 10th day of May, 1982.

CHILD SUPPORT
ENFORCEMENT AGENCY

By: /s/ Sandra J. Beebe

IN THE EIGHTEENTH JUDICIAL DISTRICT DISTRICT COURT, SEDGWICK COUNTY, KANSAS DOMESTIC DEPARTMENT

STATE OF TEXAS and STEPHANIE D. GOODSON, Petitioner, vs. HERBERT G. JONES, Respondent.	Case No. 86R59 Division/Position D Texas #390,721

ORDER TO APPEAR

NOW; on this 11th day of March, 1986, it is orally moved by Gary H. Jarchow, Court Trustee, the attorney for the petitioner, that the respondent be ordered to appear before this Court on a day certain

After examination of the files, and after being fully advised in the premises, the Court finds that the above entitled action is a Uniform Reciprocal Enforcement of Support proceeding initiated in the State of Texas, and may the above entitled Court has received from the initiating State the necessary documents and papers, and that summons has issued thereon.

The Court further finds, under the facts and circumstances alleged in the petition herein, that the respondent should be required to appear before this Court on a day certain.

IT IS, THEREFORE, BY THE COURT, ORDERED, ADJUDGED AND DECREED that the respondent herein is ordered to appear before this Court,

before the Judge of the Domestic Court, 3rd Floor, Historic County Courthouse, 525 North Main, Wichita, Kansas, at the hour of 1:30 o'clock, P.M. on the 24th day of March, 1986

JAMES BEASLEY
JUDGE

APPROVED:
/s/ Gary H. Jarchow
GARY H. JARCHOW
Court Trustee
[SEAL]

IN THE EIGHTEENTH JUDICIAL DISTRICT
DISTRICT COURT, SEDGWICK COUNTY, KANSAS
FAMILY LAW DEPARTMENT

STATE OF TEXAS, EX. REL. STEPHANIE GOOODSON, Petitioner	)	Case No. 86 R 59
AND	)	
HERBERT G. JONES, Respondent	)	

AFFIDAVIT OF HERBERT G. JONES

STATE OF KANSAS, SEDGWICK COUNTY, SS:

The undersigned, after being duly sworn, upon oath, deposes and says:

1. I am the Respondent in the above-referenced matter.

2. Prior to entry of current counsel, I represented myself in 86 R 59.

3. I initially appeared in response to an Order to appear served upon me in March, 1986.

4. At that time, I objected to the affidavit of Stephanie Goodson, my ex-wife that accompanied the Order to Appear and other documents because she had sworn to a false affidavit claiming a figure I disagreed with and that she had received no other support during the time frame alleged. At that point, no hearing was granted; Mr. Jarchow wanted to see my documentation. I conferenced with him to show him my information. The latest consistent direct payment I had made to her was a canceled check

from the month before with her endorsed signature on the back.

5. I explained to him that Alaska was the home state of the Mother, the child, and I. I then asked why Texas was involved. Mr. Jarchow explained that Texas was the State she was filing under. I explained to him at that point that I had been paying through the courts in Alaska, and that the Mother had abducted the child and left the country back in 1980. I believe she had gone to Canada, but I could not get assistance from the Canadian authorities, which explained they could have been visiting as tourists, and they did not want to harass them. The Canadian authorities forbidded me from pursuing them into the country under any circumstances. Eventually they surfaced in two other states. One was Washington, where they were sited; the other was Oregon. I continued to pay through the Court in Alaska until I was advised that they were still holding checks from previous months, and they could not give me any forwarding information because they had none. Eventually, they surfaced in the State of Texas, but Alaska had already suspended collections in May of 1982. (See suspension document in court file 86 R 59). At that point, I had no jurisdiction to pay to, so I had to make payments to her directly. She still would not allow me to see our child. I asked Mr. Jarchow about visitation, and he advised that I would have to address that matter in Alaska because visitation and child support were separate. I said okay.

6. At that point, Mr. Jarchow and I began to conference on the issue at hand. But I noticed when I told him about the issues outlined in the above paragraphs, he compared the events I told him about to his paperwork. Mr. Jarchow then told me that the child support amount could not be

changed by Kansas, but he would set the arrearage. He then asked me if I had any documentation of my direct pays. I told him I had receipts from Alaska and a print out from Alaska, plus my canceled checks and money order receipts that conflicted and disputed the information in Petitioner's affidavit. Mr. Jarchow then asked me if I had copies, and I told him, no, I only had the originals with me, but I could make some. He told me to make the copies, deliver them to his office, and I would get credit for all direct pays I had proof of. I told him that's fine. At that point he set the arrearage payment. He told me it would be $2.50 every two weeks, for a total of $5.00 per month to be paid starting April 10, 1986, giving me enough time to bring in my documentation to get the calculations done and prepare a journal entry for me to review. He told me there would be no interest applied to this when I questioned him about the low amount. I told him I would deliver the documentation by that next Wednesday to his office, which I did. I never heard from his office the following week, so I called to find out when I would receive the journal for my review and signature, and personnel in the Trustee's office did not know what I was talking about, and I was never able to get in touch with Mr. Jarchow. Subsequently I have dealt directly with Megan Campbell and Susan Lind in this case, and when questioned about direct pays and the journal entry of 1986, neither verified its existence. Now Jennifer Olsen is assigned and has argued in open court against direct pays being credited. I had been up to the courthouse to view my file on various occasions through out the years, and it was always checked out to the Trustee's office. In 1996, Hearing Examiner Rooney referred to an unfiled draft of what might have been the 1986 journal entry when I appeared in court with Susan Lind. I asked for a hearing at that

time because the Trustee's office was alleging that I owed nearly $20,000.00. Too many various figures have been proposed by the Trustee's office, and I have never received any calculations from their office in the 14 years that this case has been in Kansas as to what they believe I owe. I have never been granted a hearing to determine an amount. I was shocked to learn from counsel that a journal entry had been found in the original file brought back from the salt mines, but that document does not appear in sequence, or at all on microfilm. I was appalled that it was filed without my review, and no signature line appears on the document for me. This was not a default judgment. I have purchased real and personal property in Sedgwick County, and no judgments have turned up in searches of the court records. I had a right to a hearing on the contested issues in the beginning back in 1986. From the time I moved to Kansas, I had a family attorney that I wanted to have the document reviewed by, but I never received it. I may as well have my hearing now, since the Trustee has not lived up to the bargain he made with me. I have a witness who was sitting there during my negotiations with Mr. Jarchow, and that witness now lives out of state, who will testify to what he heard.

7. I have asked about the journal entry to be filed in 1986 on numerous occasions when dealing with the Trustee's office, and at no time was I advised that it had been filed without my review and signature; nor have I ever been credited with direct pays. I filed my own motion to have the journal entry and arrearage finalized, but the court has not set an evidentiary hearing date. I asked in open court for an evidentiary hearing back in 1996 before the Hearing Examiner and was told just to wait; the alleged number of arrearage changed, and was to be adjusted to

account for direct pays and income tax intercepts. On August 28, 1996, the journal entry was to be done, and the Trustee's office has failed to do a journal entry to date. I always receive notices to appear, but I never receive journal entries, withholding orders, etc., and I was Pro Se. The Trustee's office has told me, they could not talk to me, because they represent the Mother, and I need to get an attorney. In looking at the file, it appears my address is not correct, and any orders are only signed by the Trustee's office and the court as if my appearances are defaults. Now, yet another member of the trustee's Office, Jennifer Olsen, is saying that interest is to be added to my arrearage, which is a violation of my agreement with Mr. Jarchow. My due process rights have been denied, and the Trustee's office has history of not living up to agreements in my cases. (See 95 D 1852).

8. First of all, I do not understand what authority the Trustee's office is operating under and who are they collecting for. Stephanie did not initiate this case in Alaska because she abducted the child, and went to another country. Alaska suspended collections because they could not find her. Now the Trustee's office has reneged on its 1986 agreement with me and is attempting to collect ransom for the abducted child who is now 21 years old. Even a neighborhood loan shark would let you know up front what interest you will pay, not come later and say you owe more, especially when you have been told up front, there is no interest. The Trustee's office has no credibility with me and their tactics need to be looked into by a governing agency, because what Stephanie Goodson did was a crime. She should have been questioned about her false affidavit and why she did not go back to her home state to address the child support issue. She did not

know what awaited her there with the authorities for her actions, but Kansas has allowed her to come here by way of Texas to avoid her liability and the wrath of the court in Alaska. How can she seek protection of the laws here, when she violated the law in Alaska and our divorce decree by voluntarily making herself unavailable.

FURTHER AFFIANT SAITH NOT.

/s/ Herbert G. Jones
Herbert G. Jones

SUBSCRIBED AND SWORN TO BEFORE ME this 12 day of February, 2000.

/s/ Staci De Boa
NOTARY PUBLIC

My appointment Expires 4-2-00
[LOGO]
[Illegible]
NOTARY PUBLIC
STATE OF KANSAS
My Appt. Exp. 4-2-2000
Cc: Kansas State Attorney General

IN THE SUPREME COURT

OF THE STATE OF KANSAS

STATE OF TEXAS AND
STEPHANIE GOODSON,

Appellees,

v. ***Case No. 01-87509-A***

HERBERT G. JONES,

Appellant.

MOTION FOR CLARIFICATION OF RULING ON PETITION FOR REVIEW AS A MATTER OF RIGHT;

MOTION FOR WRITTEN FINDINGS ON MOTION FOR REHEARING OR RECONSIDERATION AND ON MOTION FOR STAY OF MANDATE;

MOTION TO WITHDRAW MANDATE

COMES NOW, the Appellant, Herbert G. Jones by and through his attorney, Cheryl J. Roberts and moves the Court for the following:

1. Clarification of the Court's ruling on Appellant's Petition for Review as a matter Right, as Appellant's Petition was filed with the Court to be reviewed as a matter of right, and it is so designated on the cover of said Petition.

2. In said Petition, Appellant requested a ruling from this Court on the pivotal issue of contract law governing the Alaskan dissolution rather than the Uniform Reciprocal Enforcement of Support Act. No contrary law refuting that the Alaska dissolution is governed by contract law, and

not the Uniform Reciprocal Enforcement of Support Act has been raised by Appellees. Therefore, the jurisdiction issue has still not been ruled upon, and the Supreme Court of Kansas is the court of last resort in this State. Appellant seeks clarification on why this issue has not been ruled upon by the Court.

3. Failure to rule on said issue denies Appellant his right to a meaningful appeal, access to the courts, equal protection, and right to due process under the United States and Kansas Constitutions.

4. The Supreme Court of Kansas summarily overruled Appellant's Petition for Review as a Matter of Right without opinion, still leaving open the issue of jurisdiction. To appeal to a higher court, Appellant needs a ruling on this issue.

5. In addition, written findings are being requested on Appellant's motion for rehearing and reconsideration of this Court's July 11, 2002 ruling and Motion for Stay of Mandate. (Counsel has received messages from Clerk, Kathy Garmon on July 19, 2002 and July 22, 2002 regarding these two motions, but for purposes of further review, written rulings are requested).

6. Since the issue of jurisdiction under contract law has been left open, Appellant requests that the mandate be withdrawn.

WHEREFORE, Appellant prays for the relief requested herein and such other relief as the Court deems to be fair, just, and equitable.

Cheryl J Roberts
ATTORNEY CHARTERED
212 N. MARKET, STE. 310
P.O. BOX 86
WICHITA, KANSAS 67201-0086

January 14, 2002

Clerk of the Appellate Courts
Attention: Justices of the Court of Appeals
Kansas Judicial Center
301 S.W. 10th
Topeka, Kansas 66612

Re: IN THE COURT OF APPEALS OF THE STATE OF KANSAS STATE OF TEXAS AND STEPHANIE GOODSON v. HERBERT G. JONES No. 87,509-A

Dear Justices of the Kansas Court of Appeals:

Following please find additional authority to supplement the Appellant's brief filed herein pursuant to Rule 6.09. The additional authorities which follow further support Appellant's position that the Alaskan dissolution is construed under contract law with the appropriate action being breach of contract, not an action under the Uniform Reciprocal Enforcement of Support Act (URESA); therefore, no jurisdiction and that Appellant has been denied due process in this case.

To Appellant's Brief, add the following:

On page 12, as the first complete paragraph;

Even if Kansas had jurisdiction in a properly filed breach of contract action, the Kansas rule for interpreting a contract is the law of the place of contracting, unless the parties expressly direct that the contract be construed

under the laws of another state. *Sanger v. Sanger, 132 Kan. 596, 296 P. 2d 355 (1931).*

To page 11, after the first complete paragraph;

There are two principal ways in which the terms of an agreement become "incorporated" into a divorce decree. The first is by recitation, and the other is for the decree to refer to the existence of the agreement and incorporate its provisions by reference rather than by recitation. This usually means that the agreement is somehow identified in the decree (e.g., by date and by stating that a copy is in the court file) and is commonly, attached in its entirety to the judgment or to the court's finding or memorandum of decision) . . .

. . . Where the terms of the agreement are recited in the judgment, the interpreting court needs to look only at the judgment and apply the standard rules applied to interpretation of judgments; . . . Where the agreement is incorporated by reference, the court must focus on the agreement as a contract and interpret its terms in the same manner as any other contract would be interpreted. These differences are characterized as follows: the interpretation of the judgment is a matter of law, whereas the interpretation of an agreement is a question of fact. *Lindey on Separation Agreements and Antenuptial Contracts, Alexander Lindey and Louis I. Parley, Vol. 2, 1996, pp. 31-10, 11.*

In examining the relationship between the agreement and the divorce decree, it is important to bear in mind that many states explicitly require that there be an agreement before the parties can obtain a dissolution decree on no-fault grounds. 10, See e.g., *Alaska: Alaska Stat. 25.24.210.* . . . As persuasive authority, see *Costello v.*

Costello, 186 Conn. 773, 443 A.2d 1282 (1982) ("when a court has approved the provisions of a dissolution decree agreed upon by the parties, the court cannot modify or augment those provisions without following the requirements of due process"). Also see *Lindey, supra., p.31-12.*

If an agreement is incorporated but is not merged into the judgment or decree, the result is the existence of two separate instruments – a judgment or decree of divorce, and a valid and subsisting contract. 2. See *Stouffer v. Stouffer, 867 P.2d 226 (Haw. Ct. App. 1994). Also see Lindey, supra., p. 31-13.*

If an agreement is not merged, any action to enforce it must be brought as an action for breach of contract. Thus the remedies that are generally available for the enforcement of a divorce decree, such as contempt, are not available. 7. *Lindey, supra.,p.31-15.*

When the clauses of a separation agreement are mutually dependent, a breach by one party under one clause will excuse the other party's performance under the related clause . . . *Lindey, supra., p. 25-8.* Basically, the parties to a separation agreement have available all the remedies that would be available under any other contract:

(1) remedies specifically provided for in the agreement;

(2) actions for damages for breach of contract;

. . .

(3) actions for specific performance; . . .

(4) declaratory judgment actions; . . .

(5) rescission of the agreement for material and substantial breaches . . .

In certain cases, the aggrieved party may be able to recover punitive damages in addition to the basic remedy . . .

Since the agreement is not a judicial order, the remedies available to enforce such orders such as contempt proceedings or wage garnishments are not available . . .

The court may not use its powers to change the terms of the agreement under the guise of providing a remedy. *Lindey, supra., 25-9, 10.* The Sedgwick County, Kansas District Court provided a remedy which changed the agreement of the parties and denied Appellant his rights under the agreement pursuant to Alaska law, denied Appellant due process since there was no breach of contract action to determine that he was in breach pursuant to Alaska law, and did not give Full Faith and Credit to the notice of suspension of the Alaska Child Support Department of Revenue or Alaska's URESA law.

To page 8 of Appellant's brief, at the end of paragraph 2:

Pursuant to the Alaska definitions in its reciprocal child support collections legislation, the definition of tribunal is as follows: *AS 25.25.101,(22)* Tribunal means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage. According to *AS 25.25.102*, tribunals of the state are the superior court and child support enforcement agency. The Alaska child support enforcement agency is created per *AS 25.27.010*. There is created in the Department of Revenue the child support

enforcement agency. *AS 25.27.020* provides that the agency shall (1) seeks enforcement of child support orders of the state in other jurisdictions and shall obtain, enforce, and administer the orders in this state;

Respectfully submitted,

/s/ Cheryl J. Roberts
Cheryl J. Roberts, #12407
Attorney for Appellant
212 N. Market, Ste. 310
P.O. Box 86
Wichita, Ks. 67201
(316) 263-4949

No. 87,509-A

IN THE

SUPREME COURT OF THE

STATE OF KANSAS

STATE OF TEXAS AND STEPHANIE GOODSON,
Plaintiffs-Appellees

v.

HERBERT G. JONES,
Defendant-Appellant

APPELLANT'S PETITION FOR REVIEW AS A MATTER OF RIGHT

PRAYER FOR REVIEW

COMES NOW, the Defendant/Appellant, Herbert G. Jones, and respectfully requests, that as a matter of right, this Court review the opinion of the Court of Appeals affirming that: the State of Kansas has jurisdiction over the child support provision of Appellant's Alaskan dissolution of marriage contract entered into in the year, 1980 under the Uniform Reciprocal Enforcement of Support Act, (URESA), and not ruling on law presented by Appellant that the appropriate remedy for alleged breach of the Alaska dissolution is a breach of contract action governed by Alaska law, since the dissolution agreement survived, and did not merge into the court order. The Court of Appeals did not rule on the issue of merger/survival.

Misapplication of the URESA has violated the due process rights of Appellant under the United States and Kansas Constitutions, and has denied Appellant his remedies under contract law. In addition, by failing to rule that contract law applies, Full Faith and Credit has not been given to the laws of the State of Alaska. Due to the misapplication of jurisdiction under the URESA, the Kansas courts have found that Appellant owes money and statutory interest under Kansas law. Appellant has been denied the due process hearing he is entitled to, at which time, Appellant could have raised his defenses and claims against Stephanie Goodson under contract law and Alaska law. The Court of Appeals failed to accurately rule on the facts in the record regarding the violation of Appellant's right to due process in Sedgwick County through out the proceedings. The Court of Appeals also erred in ruling that jurisdiction is proper under URESA and remaining silent on the issue of jurisdiction being appropriate through a breach of contract action. Even if URESA applied, the Court of Appeals made ex post facto rulings in its opinion by finding that child support laws regarding finality of arrears and interest under Alaska law apply retroactively without citing any authority to support their opinion, contrary to existing Alaska law. (App.-1, 10-18).

Appellant also respectfully requests that this Court review the finding of the Court of Appeals that Sedgwick County District Court did not error by overruling Appellant's Motion to Dismiss, Motion for Relief from Judgment, and all other motions in the district court, and making findings of fact and conclusions of law 15 years after the initial Notice to Appear was served on Appellant with no accompanying documents. No record that a hearing was ever held on March 24, 1986 exists in the court record, and

the Appellant has yet to have a day in court. In effect, Appellant has not had an appeal because the laws in Appellant's favor were not ruled on. Nor will the Court of Appeals modify its erroneous rulings or publish and stand behind its opinion, although this is a case of first impression in the State of Kansas.

Appellant respectfully requests that this Court grant Appellant's Motion to Dismiss for lack of jurisdiction pursuant to K.S.A. 60-212; and that the Court grant relief from the judgment and all rulings of the Sedgwick County District pursuant to K.S.A. 60-260(b)(4)(5) and (6), as said judgments are void, were made without due process, and without jurisdiction, and violate the Full Faith and Credit Clause of the Kansas and United States Constitutions. Appellant also respectfully requests that the Court award attorney's fees and appellate costs, previously denied by the Court of Appeals. Appellant also requests that this Court find that the failure of the Court of Appeals to rule on all issues, and the subsequent denial of the motion for rehearing or modification, in effect denied him his right to appeal. Appellant respectfully requests that the Supreme Court rule on the laws not ruled on by the Court of Appeals, or that this Court order that the Court of Appeals rule. Appellant requests that all his motions previously filed be granted.

* * *

Errors in the Court of Appeals

Appellant appealed the 2001 order of the Honorable Paul Buchanan, not the 1986 interlocutory, journal entry of judgment which can not be certified or authenticated. The Honorable Paul Buchanan relied on said document as

a basis for his final ruling in 2001. (See copy of 2001 order of Judge Paul Buchanan in App.-3). This was error.

In its opinion, (App.-1), the Court of Appeals states that a hearing was held on March 24, 1986 contrary to the affidavit of Herbert Jones, (App.-4), the court record, and Gary Jarchow. (IR, Vol. 10). Judge Buchanan even stated that Gary Jarchow has never been Hearing Examiner in Sedgwick County. (Page 2-3 Motion for Rehearing or Modification, App.-2).

The Court of Appeals states that Jones was ordered to pay $150.00 per month in child support. Jones actually agreed to pay $150.00 per month in child support. The payments were ordered to be paid through the Alaska Child Support Enforcement Department of Revenue (CSED). (Page 2, Motion for Rehearing or Modification, App.-2).

Aleasha's date of birth is October 10, 1978, not September 10, 1978. (Page 3, Motion for Rehearing or Modification, App.-2).

On page 2-3 of its opinion, the Court of Appeals references the "Notice of Suspension" but does not clarify the error in that document that states that no payments had been received under the order. There is a copy of a pay record from Alaska CSED in the Sedgwick County court records. The fact is that payments had been made; therefore, the language in "Notice of Suspension" is not accurate. (See page 3, Motion for Rehearing or Modification, App.-2).

On page 3, of the opinion, the Court of Appeals again refers to a hearing being held on March 24, 1986 although this is not supported in the record. In addition, the case

did not lay dormant for several years, because Jones made direct payments. (See page 4, Motion for Rehearing or Modification, App.-2).

On page 4 of the opinion, the Court of Appeals again states that a hearing was held on May 2, 1990 when there is no record of a hearing occurring. The Court further states that Jones faithfully made payments under the order, but Jones says he was paying pursuant to the Alaska agreement and Jarchow's instructions. (Referenced on page 4 of Motion for Rehearing or Modification, App.-2). The court further stated that payments became irregular in 1995; however the record shows an irregularly high payment in excess of $1,200.00 late in 1995. (Also referenced on page 4, Motion for Rehearing or Modification, App.-2). In addition, on page 4 of the opinion, it was not specified that although an order was mailed to Jones in 1996, the address was not correct. (Page 4, Motion for Rehearing or Modification, App.-2).

On page 5, of its opinion, the Court states that in February, 2000, Jones, through counsel filed a motion for relief from judgment without clarifying that the first motion filed was a motion to settle all journal entries including the journal entry of March, 1986. The 1986 order could not be located, did not exist in micro fiche records of the court, and filing it had been the subject of a pro se motion of Appellant in 1996. (Page 5, Motion for Rehearing or Modification, App-2).

(Also on page 5 of the opinion); There is nothing in the record to substantiate when Aleasha Jones graduated from high school, nor that her emancipation was anything other than pursuant to the Alaska agreement. No arrearage figures could be entered by the Sedgwick County

Court based upon the law cited in Appellant's briefs and 6.09 letter. (Appellant's 6.09 letter in App.-5). The court did not rule on the issues regarding merger and survival, nor breach of contract being the appropriate remedy for alleged breach of contract under Alaska law, rather than URESA.

The Court of Appeals erred in not designating the opinion for publication because this case is a case of first impression in the State of Kansas. The issues of merger and survival are the pivotal, in determining what law applies in this case. The denial of due process in the district court, and the subsequent failure of the Court of Appeals to rule on all facts and all legal issues is a violation of Appellant's constitutional right to due process. The case has been conducted in the State of Kansas since 1986 without jurisdiction. The Court of Appeals already conceded that the Alaska dissolution is an agreement of the parties. However, the Court did not rule on the issue of Alaska dissolutions being construed under contract law. *Keffer v. Keffer*, 852 P. 2d 394 (1993). (Cited on page 6 of Motion for Reconsideration or Modification, App.-2, and page 10 of Appellant's Brief).

Appellant stated law in support of his position that the dissolution is an independent contract of the parties, construed under Alaska law since no other law was specified as the law to be applied to the contract. The appropriate remedy according to the literature is a breach of contract action, not a URESA. In other words, contract law applies, not domestic or reciprocal child support law. Therefore, the use of URESA in this case has been done without jurisdiction and without the due process required in a breach of contract action. Summarily finding that Appellant owed the payments under the dissolution and

adding interest pursuant to URESA, without litigation in a breach of contract action is in violation of due process. The failure of the Court of Appeals to rule on all issues presented by Appellant is a further violation of due process under the law. Since the Court of Appeals did not rule on all issues, the denial Appellant's Motion for appellate costs and attorney's fees was not properly considered and addressed.

Even if URESA applied, the Court of Appeals did not rule on the case, *State of Alaska CSED v. Valdez*, 941 P. 2d 144 (1997) that explains that a URESA case is not a judgment, but is only an enforcement tool unless it specifically supercedes the original order. At the time of the Jones dissolution in 3-AN 80-384, on February 27, 1980, there was no interest statute on past due child support. The Court of Appeals conceded this point, App.-1, 16 of its opinion, but then ruled that the 1984 Alaska statute that made all of the past due child support payments final judgments, retroactively applied to the Jones payments which were not final, and that had not been litigated in a breach of contract action. App.-1, 10-18. The domestic statute, reducing arrears to judgment pursuant to *AS* 25.27.226 does not apply to dissolution agreements. Alaska has a statutory policy against retroactive modification of its statutes. *Jones Enters. Inc. v. Atlas Service Corp.*, 442 F. 2d 1136 (9th Cir. 1971). No statute is retrospective unless expressly provided therein. *AS* 01.10.090 enacted in 1962. (App.2, p. 10). Nor does AS 09.30.070 apply to add interest in the Jones case because that statute requires notice and due process of law. The Kansas domestic law interest statute does not apply because contract law applies. Even if valid, the purported order of

1986 was not final as to a number certain because direct payments by the Appellant were not credited until 2000.

In this case, the Appellant has been deprived of life, liberty, or property without due process of law required under the 14th Amendment. Even if applicable, the Alaska URESA prohibited modification of Alaska court orders. *AS* 25.25.250. Under the Full Faith and Credit Clause of Article IV, section 1, of the United States Constitution, full faith and credit is to be given to the public acts, records, and judicial proceedings of every other State. Appellant's not receiving a breach of contract proceeding is a violation of due process and the full faith credit clause.

* * *

ARGUMENTS AND AUTHORITIES

Review is warranted based upon the following arguments and authorities as a matter of right: The Court of Appeals erred in not ruling on all legal issues raised in Appellant's briefs and 6.09 letter, App.-5, that Appellant contends apply to his dissolution contract. (Appellant incorporates all references to errors in facts and law made in the Court of Appeals section previously referenced herein.)

* * *

No. 87,509-A

IN THE COURT OF APPEALS OF THE STATE OF KANSAS STATE OF TEXAS AND STEPHANIE GOODSON,

Plaintiff-Appellant

HERBERT G. JONES

Defendant-Appellant.

APPELLANT'S BRIEF

COMES NOW, Herbert G. Jones, by and through his counsel, Cheryl J. Roberts, and moves the Court to reverse the final ruling of the Honorable Paul Buchanan, Chief Judge in Sedgwick County case number 86 R 59. Said final ruling was filed on July 13, 2001, as the final order, to the interlocutory order of March 24, 1986. Said order also overruled the motion for relief from judgment pursuant to K.S.A. 60-260(b)(4), (5), and (6), that was filed in February of 2000, motion to dismiss, and other motions with their respective memorandums, including affidavit of Herbert G. Jones. (I.R. Vol 2, 104, 110-11, 161-165, 166, 167, 168, 182-183, 185-192, 193-200; Vol. 3. 274-275; Vol. 4 276-439; Vol. 5, 440-549; Vol. 6 550, 551-576, 577-598, 599-603, 608-658; Vol. 7, 659-718; Vol. 9, 842-877, 878-879), respectively. This ruling was made over 15 years after the initial court appearance on March 24, 1986.

NATURE OF CASE

This appeal involves a reciprocal child support action brought by the State of Texas Attorney General and Stephanie Goodson, formerly Jones, in Kansas, against Herbert G. Jones in 86 R 59 based upon an Alaskan

dissolution of marriage action with Stephanie Goodson, formerly known as Jones in 3 AN 80-384 (I.R. Vol. 1. 65-72).

ISSUES AS STATED BY THE APPELLANT

1. Did and does, the Sedgwick County District Court have jurisdiction/authority to modify the private agreement/contract of the parties made in their Alaskan dissolution of marriage in 3AN 80-384, over 21 yeas after the fact to add a provision for interest on past due child support arrearages not reduced to judgment under Alaska law, are in fact final, by using the Uniform Reciprocal Enforcement of Support Act (URESA)?

2. Is the March 1986 interlocutory order entered without the knowledge, waiver, or signature of Herbert G. Jones void for lack of jurisdiction and due process pursuant to the law cited herein?

3. Should the Court have granted the Motion for relief from judgment and amended motion to set aside judgment, motion to dismiss, for default and other motions filed on behalf of Herbert G. Jones based upon the facts, law, and authority cited herein?

STATEMENT OF FACTS

1. Herbert G. Jones was served an Order to Appear on the 14th of March, 1986 in Sedgwick County Case No. 86 R 59. He was not served with the petition or any other pleadings in the case. EXH. A. (Copy attached, I.R., Vol. 9, 898).

2. Herbert G. Jones appeared pursuant to the Order to Appear in 86 R 59 on March 24th, 1986 at 1:30 p.m. a notation was made on the minutes sheet by Gary Jarchow, Sedgwick County Court Trustee, and the stamp of the Honorable James Beasley appears on said minutes sheet. EXH. B. (I.R., Vol. 4, 379).

3. A detailed outline of the facts are set out in the Affidavit of Herbert G. Jones, filed in 86 R 59. EXH C. (I.R., Vol. 2, 161-165). He never saw a judge and never received a hearing. Gary Jarchow apparently acted as attorney for Plaintiffs and the Hearing Examiner.

4. Herbert G. Jones was not served a copy of the interlocutory Journal Entry of Judgment filed March 28, 1986 in 86 R 59, and this is indicated in a Pro se motion he filed on his behalf on August 19, 1996. EXH D. (I.R. Vol. 2, 102-103).

5. Collections and enforcement of child support had been suspended in 3AN 80-384 on May 10, 1982. EXH. E. (I.R., Vol. 1, 65-72; Vol. 4, 382)

6. The interlocutory order of March 24, 1986 was entered without due process, and was filed in the Texas file in 390, 721. EXH. F-1, EXH 5-2 (I.R., Vol. 5, 453-456; Vol.). The 1986 order does not exist in the microfilm records of 86 R. 59. Therefore, the Sedgwick County Court should be ordered by this court, to dismiss case number 86 R. 59. There is no order on which to base the arrears and interest charges in question.

7. Herbert G. Jones has never been allowed to present testimony and evidence on his behalf in this case. (See transcripts, I.R., Vol. 10, 11, 12, 13, 14, 15). He did not receive credit for direct pays until ordered in the year

2000, and entered as part of the order of July 12, 2001 in the order appealed herein, and did not receive complete credit as ordered by the Court. (See Vol. 14, 25, lines 9-23). (See Jarchow transcript, I.R, Vol. 10, 21-24, lines 1-9). Also see Jarchow transcript for his version of facts.

STANDARD OF REVIEW

Under K.S.A. 60-260(b), (4), (5), and (6), a court can grant relief from a judgment if it is (4) void, (5) the judgment has been released, or discharged, or a prior judgment upon which it is based has been vacated, or it is no longer equitable that the judgment should have prospective application; or (6) any other reason justifying relief from the operation of the judgment. . . .

Under K.S.A. 60-212 (1)(2), lack of jurisdiction over the person and subject matter may be raised by motion by the pleader by motion. Pursuant to K.S.A. 60-212 (h)(3), whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action.

ARGUMENTS AND AUTHORITIES

1. Did and does the Sedgwick County District Court have the jurisdiction/authority to modify the agreement/contract of the parties made in their Alaskan dissolution of marriage in 3 AN 80-384, over 21 years after the fact, to add a provision for interest on past due arrearages not reduced to judgment under Alaska law, and to declare that said arrears are in fact final, by using the Uniform Reciprocal Enforcement of Support Act (URESA)?

2. Is the March 1986 interlocutory order entered without the knowledge, waiver, or signature of Herbert G. Jones void for lack of jurisdiction and due process pursuant to the law cited herein?

3. Should the Court have granted the Motion for relief from judgment, amended motion for relief from judgment, motion to dismiss, and other motions filed on behalf of Herbert G. Jones based upon the facts, law, and authority cited herein?

(Exhibits follow in the Appendix).

(Issues 1, 2, and 3, are being addressed together, as they overlap).

(See Memorandum in Support of Motion to Dismiss in Support of Request for Adjudication on Jurisdiction, I.R., Vol. 4, 276-439 for copies of Alaska laws cited therein, specifically, Exhibits, 8, 9, 10, 15, 16). Also see for summary of the case).

Under the Alaska Uniform Reciprocal Enforcement of Support (URESA) statute in effect at the time of the dissolution of marriage in 3 AN 80-384, and the filing of the URESA action in Sedgwick County case 86 R 59, the Alaskan URESA explicitly denied the responding court jurisdiction to do more than enforce a support order. Alaska Stat. 25.25.250. Also see The University of Michigan Law School. University of Michigan, Winter 1991. In said article, it states that many states explicitly deny the responding court jurisdiction to do more than enforce a support order. See e.g. Alaska Stat. 25.25.250 (Supp. 1990); Ga. Code Ann. 19-11-42(11) (Supp. 1990); Ill Rev. Stat. Ch 110 A para. 296(k)(5) (1989); Nev. Rev. Stat. 130.290 (1990).

Therefore, the March 28, 1986 order in 86 R 59 is void, because it was a modification of the Alaska court order that was prohibited by the Alaska URESA. Under the Full Faith and Credit Clause of Article IV, section 1 of the Untied States Constitution, full faith and credit is to be given to the public acts, records, and judicial proceedings of every other state.

The amount of Mr. Jones' child support payments have never been modified in Kansas because of the Alaska URESA law, therefore, the finding of arrears by Kansas was prohibited. Therefore, the March 28, 1986 order is void. In addition, it is void for lack of due process. Mr. Jones has never received a hearing in this matter. It could not have legally been conducted by Gary Jarchow because he was the attorney for the Plaintiffs and was the Court Trustee.

As previously raised in previous motions and briefs, filed in 86 R 59, the child support payments in question were suspended pursuant to a Notice of Suspension dated May 10, 1982 in 3 AN 80-384, In the Matter of the Dissolution of Marriage of Herbert Jones and Stephanie Jones. EXH. G-1, G-2 (I.R., Vol. 1 80, 68, respectively. Where arrearages have accrued under a support order, it is the law of the state which initially issued the support order that applies. (Interstate Child Support Remedies, Edited by Margaret Campbell Haynes with G. Diane Dodson, September 1989).

Neither Kansas nor Texas has ever registered the Alaskan court order as a foreign judgment. In fact, according to Kansas child support law as it existed pursuant to K.S.A. 23-4, 125 et. seq., (1985 Supp.), it was required that Kansas file a foreign support order as a foreign support

order, 23-4, 129. No certified pay record exists in file 86 R 59. The uncertified copy of the pay record was provided by Mr. Jones. (See Jones affidavit, EXH C herein. (Copy of pay record I.R., Vol. 1, 77-78).

Nor has Alaska Child Support Enforcement Department of Revenue (CSED), nor the Superior Court of Alaska ever made a finding or ruling that Mr. Jones owes any arrears. The arrears were not reduced to judgment as provided for in AS 25.27.226; (I.R., Vol. 4, 419). Therefore, the actions of the Kansas Child Support Agency, and the State of Texas are without jurisdiction and no due process, since no hearing was held. All the necessary procedures to finalize the arrears had not been performed in Alaska, so Kansas is attempting to give greater effect to statute than given by courts of the sister state itself.

In the State of Alaska CSED v. Valdez, 941 P.2d 144 (1997), a URESA case is explained as being only an enforcement tool unless it specifically supercedes the original order. URESA is in addition to and not a substitution for other remedies. Also see Wornkey v. Wornkey, 12 Kan. App. 2d 506; 749 P.2d 1045 (1988).

In Jones v. Jones, 666 P.2d 1031 (1983), the Alaska Supreme Court ruled in a case of first impression that child support payments could be retroactively modified if extraordinary circumstances exist. This followed the general rule of states, including the State of Kansas in Trunkey v. Johnson, 154 Kan. 725, 121 P.2d 247, 250 (1942). Therefore, the Court's previous ruling that all judgments in Kansas bear interest, is an incorrect finding. In addition, under the Alaska URESA and the previously cited authorities, Kansas could not modify the Alaska court order to find arrears as it did in the March 28, 1986

order, which was done without Mr. Jones' knowledge, or acknowledgment by his signature or waiver.

Neither has Alaska ever given Mr. Jones notice that interest would apply to any payments past due under the order in 3 AN 80-384 as required by former AS 47.23.020.(a)(2)(C) and AS 25.27,025 for charging Mr. Jones interest on any past due payments. (I.R., Vol. 4, 429-433). Said statutes provided that a uniform rate of interest be charged upon notice to an obligor and a hearing held. (I.R. 419-421, see Alaska statutes for when statute enacted requiring that child support payments be treated as final judgments as of July, 1984. Therefore, Kansas has no basis for asserting that interest applies in Mr. Jones' case.

Specifically, Mr. Jones entered into a dissolution of marriage in Alaska, which is governed by different procedures than divorces. See AS 25.24.110-25.24.180, Divorce and Annulment, and 25.24.200-25.24.260, Dissolution of Marriage. (See EXH. G-1, I.R., Vol. 1, 65-72; 73-90; Vol. 9, 636) for copy of Jones Dissolution Petition and Dissolution for Court's reference).

At the time of the Jones dissolution in 3 AN-80-384, on February 27, 1980, there was no interest statute on past due child support. The Jones child support order did not include a provision for interest on past due child support. EXH. G-2, PARA. 7, I.R., Vol. 1, 65-72; 73-90; Vol. 9, 633. Compare with the Child Custody and Child Support Order in Amber Gustafson c/o Alaska CSED v. Timothy Dye, 00 R 593, Sedgwick County, Wichita, Kansas. EXH. H-1, para. 10.c. (I.R., Vol. 9, 842-877, in Exh. C of the Motion to Dismiss). In that case, note that interest is provided for on past due child support and the reciprocating is being done by Alaska CSED with the father living in

Wichita, Kansas, EXH. H-2, and the Mother living in Arizona. Interest on past due child support became in Alaska became law, January 1, 1983, formerly AS 47.23.025. At the time of the URESA action in this case, Alaska CSED had the duty of enforcing the Alaska court orders in the State and in other jurisdictions; formerly AS 47.23.020 (1985 Supp.); therefore, jurisdiction was not obtained properly. Texas initiated the URESA without Alaska CSED. In a letter dated March 6, 1980, CSED Alaska advised Mr. Jones that all child support payments and collections would be handled through Alaska CSED. EXH I, (I.R., Vol 6, 653-658).

The Jones case is stayed in time with CSED, since collections activity has never been reinstated. Thus, there is no beginning number for collections. Based upon the dissolution, the parties were to handle matters between themselves regarding the child support, once CSED suspended collections.

Even if Kansas could legally modify the Alaska order, it did so without due process and according to its own case law. See Keller v. Guernsey, 227 Kan. 480; 608 P.2d 896, which held that the Court did not err in not granting a lump sum for child support allegedly due and not final in nature that could be modified or canceled by the New York Court. Again, the Jones child support payments had not been reduced to judgment, and were subject to waiver under Malekos v. Yin, 655 P.2d 728 (1982). In addition, any judgments not executed upon within five (5) years, require notice, an opportunity to be heard, and permission from the Court where rendered under Alaska Rule of Civil Procedure 69(d), Robbins v. Robbins, 647 P.2d 589 (1982). Mr. Jones also never had the opportunity to present his separate cause of action for damages against Stephanie

Goodson for intentional deprivation of visitation rights as previously cited, pursuant to AS 25.20.240, and criminal penalties pursuant to AS 11.51.125. Alaska was the appropriate forum to address all issues concerning the child support, custody, civil damages, and the criminal penalty for Goodson's removing the child from Alaska without a court order to defeat Mr. Jones' visitation rights. Pursuant to In re Adoption of Baby Boy S., 912 P.2d 761 (1996), a Kansas case, in conflict of laws situations, for a state's substantive law to be selected in a constitutionally permissible manner, that state must have a significant contact or significant aggregation of contacts, creating state interests, such that the choice of law is neither arbitrary nor unfair. Due to the differences in Alaska URESA law and Kansas RURESA (Revised Uniform Reciprocal Enforcement of Support Act) law in this case; the expectations of Mr. Jones regarding the nature of the Alaska dissolution of marriage contract; and the breach of the very heart of the contract by Stephanie Goodson, applying Kansas substantive law is fundamentally unfair. In the dissolution proceeding, neither party was represented by counsel; however, Goodson has been represented by both the Attorney General of Texas and the Sedgwick County Trustee. Mr. Jones had been without representation for nearly 14 years in the case herein, believing that this matter had been settled according to the original Alaskan dissolution contract, which did not provide for interest, and Gary Jarchow's word, that there would be no interest.

Kansas has now modified the terms of the Alaskan dissolution by seeking interest on child support payments that have never been final, but frozen in time by the Notice of Suspension. This is a retroactive modification

prohibited by 54 Fed. Reg. 15,763 (1989), cited in Boone v. Boone, 920 P.2d 746 (1996)

The attempt by Kansas to claim continuing, exclusive jurisdiction is erroneous because it has never had jurisdiction, since the Alaska URESA denies modification of its order by the responding state. Kansas has already collected the past due child support payments without a final order and without jurisdiction. Now Kansas seeks interest on this same money, which alters Mr. Jones' dissolution of marriage contract that did not contain a provision for interest, and contained a provision providing that the dissolution contained the entire agreement of the parties. EXH. E., (I.R. Vol. 6, 636).

Dissolution agreements are subject to interpretation under contract principles. See Keffer v. Keffer, 852 P.2d 394 (1993). In Keffer, the Court recites Alaska Dissolution of Marriage, H.B. 873 which reads as follows:

> In providing a dissolution procedure, the legislature intended that the parties involved would be able to resolve their differences amicably and in their own way.

In addition, according to the provisions of the Alaskan dissolution, the agreements of the parties were not merged, the agreements were incorporated, which means that the agreements could be enforced by lawsuit. (See The Law of Domestic Relations in the United States, 19.12, p. 459 2nd edition, 1987. Also see paragraph 2 of court order portion of dissolution EXH G-1. Since the agreements of the parties survived the decree, the Sedgwick County Court and the Texas Attorney General cannot change the agreement by using URESA.

Kansas and Texas have acted as third parties in attempt to modify a material term of the dissolution contract by adding interest without an agreement from Mr. Jones, who was told that there would be no interest. Kansas had no authority to modify the Alaska dissolution under the Alaska URESA or by Alaska contract law. Mr. Jones has fulfilled his part of the contract, while Kansas and Texas have assisted in allowing Goodson not to live up to her part of the contract for the last 15 years.

Even under current UIFSA law, (Uniform Interstate Family Support Act), the dissolution contract cannot be modified to include interest because it would alter the entire agreement of the parties in a material way. This case was filed under URESA and has never been refiled following the procedure required under UIFSA, which requires registration of the court order. American Academy of Matrimonial Lawyers. Journal of the American Academy of Matrimonial Lawyers (1999), n 101. Even when a state acquires jurisdiction to modify an order, it may never modify an aspect of the child support order that could not be modified under the law of the issuing state. This would include adding interest 20 years later when it was not provided for in the dissolution of marriage contract, and changing the age of majority from the 18 years under Alaska law, to June 30 of the year of graduation from high school, with no records to support the finding in the case herein. In addition, this modification is a violation of Alaska URESA law which only allowed enforcement, not modification. Interestingly enough, there has never been any modification of the original amount of $150.00 per month child support pursuant to the Alaskan decree. This follows the URESA law of Alaska cited previously herein

The child of the parties is 22 years old. Kansas has no authority over this case, and it should be dismissed. The Court never ruled on dormancy, governed by K.S.A. 60-2403. This issue was briefed in brief of Mr. Jones, I.R., Vol. 2, 112-160. Even in Kansas, this issue would be dead because of dormancy. (Copy of AS 47.23.226, reducing arrears to judgment is Exhibit D to same brief. (I.R. Vol. 4, 276-439, see previous Memorandum in Support of Motion to Dismiss).

The Court should have granted the motions filed on behalf of Mr. Jones because the ruling was made over 15 years after the initial court appearance, Mr. Jones has been denied due process, there is no jurisdiction to change the Alaska dissolution agreement of the parties, Mr. Jones has paid the payments required under his agreement, and Kansas is now applying interest to an agreement that did not call for it.

* * *

Exhibit F-2

Gary R. Jarchow
Court Trustee
510 North Main, 3rd Floor
Old Sedgwick County Courthouse
Wichita, Kansas 67203
268-7687

390,721

IN THE EIGHTEENTH JUDICIAL DISTRICT
DISTRICT COURT, SEDGWICK COUNTY, KANSAS
DOMESTIC DEPARTMENT

STATE OF TEXAS and STEPHANIE D. GOODSON, Petitioner,	)	Case No. 86R59
vs.	)	126th Court
HERBERT G. JONES, Respondent.	)	Position No. E

JOURNAL ENTRY OF JUDGMENT

(Filed March 31, 1986)

On this 24th day of March, 1986, this case comes on for hearing on the petitioner's petition for support filed herein under the Uniform Reciprocal Enforcement of Support Act.

The petitioner appears by Gary H. Jarchow, Court Trustee. The respondent appears pro se.

Thereupon, the Court, after being duly advised in the premises, finds that the petitioner's petition for support should be allowed and orders that the respondent pay for the support of his dependent(s) as named in the petition

filed herein, the sum of $150.00 per month child support and $5.00 per month on an arrearage in child support of $9,075.00, payable $75.00 current child support and $2.50 on the respondent's arrearage in child support on the 10th and the 25th of each month, commencing April 10, 1986.

The respondent shall be given credit on his arrearage in child support for all monies paid directly to the petitioner for child support which he can prove.

IT IS FURTHER ORDERED that support payments herein shall be paid to the Court Trustee through the Clerk of the District Court, Support Division, 525 North Main, Wichita, Kansas 67203. Pursuant to K.S.A. 23-497 and an administrative order of this Court dated July 17, 1985, the Court Trustee of the Eighteenth Judicial District of Kansas is authorized to retain 5% of the support collected herein to defray the expenses of operation of his office.

IT IS FURTHER ORDERED that the Clerk of the District Court, Support Division, shall disburse said payments, when received, to: Office of Attorney General, CSEU – 3rd Floor, 210 Barton Springs Road, Austin, Texas 78704 (RE: 390,721).

IT IS FURTHER ORDERED BY THE COURT that should an arrearage in the payment of support develop in an amount equal to or greater than the amount of support payable for one month and all or part of one payment is more than 10 days overdue and if proper application is made by the judgment creditor, an income withholding order shall be issued by the court which will require any payor of income to the judgment debtor to withhold each

pay period income in necessary and lawful amounts to pay the current support order and to reduce the arrearage.

JAMES BEASLEY
JUDGE

APPROVED BY:

/s/ Gary R. Jarchow
GARY R. JARCHOW
Court Trustee

[SEAL of Travis County Texas]

IN THE SUPERIOR COURT FOR THE
STATE OF ALASKA

AT ___

In the matter of the Dissolution of the Marriage of HERBERT GERARD and STEPHANIE DENISE JONES Husband and wife.	No. 80-384-A PETITION FOR DISSOLUTION OF MARRIAGE: HUSBAND AND WIFE (Filed Jan. 18, 1980)

Petitioners hereby request a decree of dissolution of marriage pursuant to AS 09.55.231-09.55.237. An incompatibility of temperament has caused the irremediable breakdown of the marriage.

I. Information About Petitioners

A. Husband:

1. Length of residence in Alaska 7 years years

2. Residence address: 1036 Medfra, Space 3 — None Home Phone

3. Mailing Address: 1036 Medfra, Space 3

4. Occupation: Custodian — _____ Business Phone

B. Wife:

1. Length of residence in Alaska 10 yrs years.

2. Residence address: 735A E 21st Apt. [Illegible] Anc AK 99504 — 337-5838 Home Phone

3. Mailing address: Same

4. Occupation: Computer Operator — 264-4301 Business Phone

C. Children:

1. Are there minor children born of the marriage or adopted? yes X no ___. If yes, complete the following:

Name	Birthdate	Age	Currently in Custody of
Aleasha Jones	10/10/78	18 mo.	mother

2. Is the wife pregnant? yes ___ no X

D. Date and place of marriage Anchorage.

E. Financial Data:

	Husband	Wife
1.	Income: $1700.00 per month	$1500.00 per month
2.	Assets (list): Real Property None Personal Property 75 Mazda Other: _____ Approximate Value 3500.00	Real Property None Personal Property [Illegible] Other _____ Approximate Value 5,200.00

3. Liabilities (list):

Obligation to and amount: [Illegible] credit car payment 1100.00	[Illegible] car payment 2600.00
Total Obligations 1100.00	Total obligations 2600.00

4. Joint assets or liabilities
Assets
Liabilities 800.00 Wards 500.00 HFC 600.00 IRS 600.00

II. Agreements of petitioners: Financial

A. Spousal Support:

$ _____ per month to be paid by: _____

B. Distribution of assets and liabilities:

1. Assets

Awarded to Husband	Awarded to Wife
_____	_____

2. Liabilities

To be paid by Husband	To be paid by Wife
HFC 600.00 IRS ½ owed 600.00 Wards ½ owed 500.00	McMahan's 800.00 IRS ½ owed 600.00 Ward ½ owed of 600.00

C. Other financial agreements:

Sign over 1972 Vegas by Husband

IF THERE ARE NO CHILDREN,
DO NOT FILE THIS SHEET

III. Agreement of Petitioners: CHILDREN

1. Child Custody:

Name	Custody to be Awarded to
Aleasha Denise Jones	Mother

2. Visitation Rights:

( ) a. Reasonable Visitation
(X) b. Other visitation, as follows:
One to two weekends a month
but ask to be kept overnight without mother's permission

3. Child Support:

a. $150.00 per month, per child, to be paid by: Husband husband _____ wife. If different amounts are to be paid for different children, because of special circumstances, specify:
None
b. Good cause, if any, why child support should not be paid through the Child Support Enforcement Agency:
None
c. The number of minor children to be claimed as dependents of:
1 the parent awarded custody

___ the parent not awarded custody (must be making support payments as required by tax laws.)
This agreement concerning the number of dependents claimed by each spouse may be modified, in accordance with tax laws, based upon unforseen or changed circumstances.

IV. Other Agreements:

A. Petitioner wants prior name restored ___ yes no
no
Name _____

B. Other _____

V. Signatures and Verifications

1-18-80
DATE

/s/ Herbert G. Jones
HUSBAND

Anchorage Alaska
LOCATION

This affiant, a co-petitioner, having been duly sworn deposes and says: That the facts and matters in the above and foregoing petition are true, according to his best knowledge and belief, and that the petition therein is not made out of levity, or by collusion, fear, or restraint between co-petitioners for the mere purpose of a dissolution, but in sincerity and truth for the causes mentioned in his petition.

/s/ [Illegible] deputy
~~Notary Public in and for~~
~~My commission expires~~

1/18/80
DATE

Stephanie Jones
WIFE

Anchorage
LOCATION

This affiant, a co-petitioner, having been duly sworn deposes and says: That the facts and matters in the above and foregoing petition are true, according to his best knowledge and belief, and that the petition therein is not

made out of levity, or by collusion, fear, or restraint between co-petitioners for the mere purpose of a dissolution, but in sincerity and truth for the causes mentioned in his petition.

/s/ [Illegible] deputy
~~Notary Public in and for~~
~~My commission expires~~

EIGHTEENTH JUDICIAL DISTRICT

DOMESTIC DEPARTMENT

RECORD OF HEARING/ENTRY OF JUDGMENT

GOODSON, STEPHANIE D.

VS

JONES, HERBERT G

CASE NUMBER 86R 00059 DATE: 03-24-86

ORDER TO APPEAR (RSP __) (P) 3-14-86

001

ATTORNEYS

PTN: JARCHOW, GARY H. RSP: PRO SE

March 24, 1986

Disposition $150/mo. child support and $5/mo. of arrearage

ORDER

JUDGE:

IT IS ORDERED

X THAT The Court Trustee PREPARE A JOURNAL ENTRY ORDER REFLECTING THE COURT'S ACTION

___ THAT JUDGMENT IS ENTERED AS SET FORTH IN DISPOSITION

_____	Gary Jarchow
RECORD TAKEN BY	COURT TRUSTEE
_____	JAMES BEESLEY
APPROVED ATTORNEY	SIGNATURE STAMP NOT
PLAINTIFF	ORIGINAL SIGNATURE
_____	PLEASE RETURN THIS
APPROVED ATTORNEY	FORM TO THE ASSIGN-
DEFENDANT	MENT COURT UPON
	COMPLETION